

COMMISSION ON LAW ENFORCEMENT STANDARDS AND TRAINING

COMMISSION MEETING MINUTES

OCTOBER 8, 2009

ARKANSAS LAW ENFORCEMENT TRAINING ACADEMY

Meeting was called to order at 10:00 A. M. by Chairman Harrison. Commissioners present:

Chairman Bob Harrison
Sheriff Butch Morris
Ms. Jami Cook
Mr. Carroll Lester
Ms. Yvonne Keaton-Martin
Sheriff Danny Russell
Dr. James Golden
Lt. Bobby Walraven
Chief Kel Nicholson

Absent:

Mr. B. H. Reeves

Others present:

Director Terry Bolton
Fiscal Director, Fred Starnes
Deputy Standards Director, Brian Marshall
Deputy Training Director, Mike Paladino
Asst. Atty. General Erica Gee
Asst. Atty. General Meredith Rebsamen
Commission Secretary, Sue Albritton
Bobby Floyd, UALR Police Department
Jackie Brandford, Little Rock Police Department
Odie Fuller, Little Rock Police Department
DeShawn Bennett, Wabaseka Police Department
Mayor Fred Culclager, Wabaseka
James Marc Arnold, Boone Co. Sheriff's Office
Sheriff Danny Hickman, Boone Co. Sheriff
Sheriff Larry McGhee, Lincoln County Sheriff
Cainna Tyson, Lincoln County Sheriff's Office
David Parker, Lincoln Co. Sheriff's Office
Chief Eric Evans, Dermott Police Department

Carnell West, Dermott Police Department
Chief John Stafford, Ola Police Department
Wayne Damon, Ola Police Department
Rep. Mike Patterson, Piggott
Mayor Glenn Leach, Rector
Ron Kemp, Rector
Bill Martin, Ft. Smith
Joseph Breaux, Saline Co. Sheriff's Office
Wayne Beau, Saline County
Sheriff Bruce Pennington, Saline Co. Sheriff
Jeff Humphries, Russellville Police Department
George Johnson, Craighead Co.
Wade Hodge, Hearing Officer
Frieda Johnson, Craighead County Judge's Office

Chairman Harrison: It is 10:00 A. M. and I will call this meeting of the Commission on Law Enforcement Standards and Training to order. I would like to recognize any one here from the news media. Is there any one here from the news media? No one acknowledging. A few announcements, we have a new Deputy Director here at ALETA, Mike Paladino. Mike, congratulations. Glad to have you in that capacity. We have two new commissioners that we would like to recognize; Jami Cook with the ASP is here representing all the state agencies. Lt. Bobby Walraven is here representing the Arkansas Municipal Police Association, which the president serves for one year. Welcome to both of you. We have two new AG representatives. Don is no longer with the AG's Office. We have Meredith Rebsamen, who will replace Don and Erica Gee who will be handling the decertification hearings later today. We appreciate you coming. Is there a motion to accept the minutes of the last meeting?

Commissioner Morris: I make that motion.

Commissioner Nicholson: I second.

Chairman Harrison: Motion made and seconded. All those in favor, (All commissioners vote aye.) Any opposing? None opposing, motion passed. **ITEM I** The first item is proposed changes to Regulation 1005, as I have recommended some changes. To the Commission members and to the new Commission members, you will probably notice during the last year or eighteen months, we have had more and more requests for agencies to ask to waive the "seven year rule", and that has created a dilemma at times for the commission members knowing whether that applicant has retained the knowledge they have gained at the academy and the commission really trying to make a determination whether or not we should waive that rule or if there are extenuating circumstances which that regulation requires, and after thinking about that and talking

with some of the commissioners and looking across the line, I am from Texarkana and TCLOSE in Texas; the Texas Commission on Law Enforcement Standards does a testing process. Theirs is a little bit different from ours and what I am proposing. But if you have been out of law enforcement for six months in the State of Texas, you simply challenge the state exam. Here I am asking for the commissioners to look at and discuss and determine that if after seven years, or maybe after five years, that an individual has been out of law enforcement, that they would simply challenge a state examination, the questions would come from the questions from the basic academy. And if they successfully pass that exam they would have to take the Forty Hour Refresher and they would be eligible to become state certified. There has been some discussion about charging a two hundred fifty dollar fee. The AG's Office has determined that, that could happen. The testing would be done here at ALETA. I would like some discussion from the commission members and see if you like the five years, or the seven years or do you want to leave it as is or make some further changes.

Mr. Bolton: Mr. Chairman, there are several places in this proposed regulation where you will see question marks, and two different possibilities. If the Commission discusses this and decides on a final text of the proposed regulation, we would have to have a waiting period and a public hearing to give anyone the opportunity to express to you their belief of whether or not we should have the regulation. If at that time the Commission votes to approve it, it would still have to go before the Legislative Council at some point in the future and they would have to approve it. At that point then it would become a regulation. But I think today if we could just get settled on what the text ought to be if there is going to be a text, what that ought to be and then go from there.

Chairman Harrison: Any discussion?

Commissioner Nicholson: Well I will start it off. I think it is a good idea to do the test. That would be the only or the best way to determine whether or not they have retained what knowledge they need to.

Chairman Harrison: Do you like the five years or the seven years? Currently what happens is from, help me Brian with this, if you leave law enforcement, from the day you leave, until six months there is nothing required if you are attempting to go back into the law enforcement field.

Mr. Marshall: Just paper work.

Chairman Harrison: From six months to three years, a new background has to be done. A new psychological, a new physical, etc. From three years to seven years, in addition to the paper work that is being done, you have to take the Forty Hour Refresher. So that is the system as it is now. So if we make changes, those would remain in place but it could

change the time frame from three to five. And just going to the refresher. Or you could leave it the same from three to seven and go on to the refresher and having the background and psychological and so on and so forth done by the agency.

Commissioner Walraven: Personally I would like to leave the seven to ten.

Chairman Harrison: Anyone else?

Commissioner Golden: I am going to go with Kel. I like the five.

Commissioner Russell: The two hundred fifty dollars, is that to be paid by the agency or the individual?

Chairman Harrison: I am assuming it would be paid by the agency. Because you would have to have someone to represent you to apply for certification. So I would guess if the agency wouldn't pay the individual would have to pay. Do you want to comment on the fee?

Mr. Bolton: It really wouldn't matter to us. But we have a current AG's opinion that says that we can.

Commissioner Nicholson: I would also like to say I like the part that says you get two attempts and that is the most that you can get. That is the way it is down here now. If you do not pass an exam, you get one more chance to pass it. I would like to keep that kind of system in place.

Mr. Marshall: Would the test be the same? Or would it be a different test the second time?

Mr. Bolton: It would be a different test.

Chairman Harrison: Does Standards have a comment?

Mr. Marshall: No. I completely agree that this vehicle to avoid the full basic is a more legitimate process.

Chairman Harrison: We are saying at the end of the process if they take the exam or fail the exam, that there is no appeal process. If they fail the examination twice, then they will have to attend a full basic.

Commissioner Morris: And after ten years there is no exception.

Chairman Harrison: That is right.

Mr. Marshall: Is there, I can't find it in the manual at this minute, there is something that the Commission can pretty much do whatever they want to do. And are you saying that part of the manual would be null and void? And if it is more than ten years there absolutely would be no appeal process for whatever reason?

Chairman Harrison: I would say we would want to add that in our motion in whatever we decide. It would be a new part of our regulation 1005.

Mr. Bolton: It is at the end of this proposed regulation. "Any one separated from law enforcement for over 10 years would be required to attend a new Basic Law Enforcement Course without exception." I would think that would solve your problem.

Chairman Harrison: Any other discussion?

Commissioner Lester: I would lean toward the five to ten. Because you are actually at this point there is nothing after seven. We have to grant an individual waiver.

Chairman Harrison: That is correct.

Commissioner Lester: So if we go with the five to ten we are actually giving another three years to the individual for consideration for this break for this forty hour course. And making them more accountable with the five years. I like that.

Chairman Harrison: Any one else?

Commissioner Nicholson: I think five years compared to the seven years, if we are wanting to check to see if they have retained the knowledge to keep from going back through, then I think five years would be the place to start. If we don't go five, it is my impression that if we go with seven we are going to be looking at still having to deal with people that have been six years through. And they are going to have a knowledge loss. And we are not going to be aware of how much. I just think it would be on the safe side to get the purpose accomplished that we are wanting, to see if the people have retained the knowledge to go with the five years.

Chairman Harrison: Can we come to a consensus and agree on a motion for five years? Any one else? Can we come to a consensus and agree on five years coupled with seven?

Commissioner Walraven: Well as it stands right now you are doing waivers on the seven year rule right now, right? And on that waiver, what do they do?

Chairman Harrison: They have to go to the refresher. The Forty-Hour Refresher. Some we grant, most of the time we don't. But some we do and the regulation says if there are extenuating circumstances. And that is really the determining factor if we do or not. But if they take the exam, whether or not it is the five or seven and they pass it, it convinces me that they still have got the basic knowledge of what they have retained from ALETA.

Commissioner Walraven: So if they don't pass the test, they are going to go through the full basic.

Chairman Harrison: After the second opportunity. There may be a majority on the five years; can I have a motion on the five years?

Commissioner Nicholson: I make the motion that we do the five year part instead of the seven to ten and make it five to ten.

Commissioner Lester: I second.

Chairman Harrison: All those in favor, (Six commissioners vote aye.) Any opposing? (Two opposing.) So the five-year passes.

Commissioner Nicholson: Now this is just our recommendation, when we have a public hearing it still can be changed, is that correct?

Chairman Harrison: I don't know that it will be changed to seven, but I guess if there was opposition to the changes, we could—

Commissioner Nicholson: We could readdress the issue. Is that how we would go about that?

Mr. Bolton: Correct. And on the fee. The \$250 on the fee, that number came from the Texas' regulation. And we are not—

Commissioner Russell: And I don't have a problem with the fee, I just think that the agency would need to pay it.

Chairman Harrison: Someone might want to pay if the agency doesn't want to.

Mr. Bolton: And if you all have different feelings about the amount of that fee that can be discussed too. But we came up with that fee from Texas Regulations. Did we settle on the two attempts?

Chairman Harrison: Yes. **ITEM II** In January 2008 the files of Garland W. Cooper were “Red Flagged” due to the failure of Mr. Cooper failing to accept the certified letter of notification of reasonable cause for decertification. In July 2009 he requested an audit of his files and gave his address. The Director’s Office once again sent him a letter of notice and he accepted it and has not requested a hearing. A final vote of decertification is now in order. Is there a motion to decertify Garland W. Cooper?

Commissioner Russell: I make that motion.

Commissioner Morris: I second.

Chairman Harrison: Motion made, and seconded, all in favor, (All commissioners vote aye.) Any opposing? None opposing. Motion passed. **ITEM III** At the October meeting each year the Commission sets the dates for the upcoming year. The suggested dates for the year 2010 are: Thursday, January 14th, Thursday April 8th, Thursday July 8th and Thursday October 14th. Are there any conflicts with those dates? Is there a motion to accept?

Commissioner Morris: So moved.

Chairman Harrison: Motion made.

Commissioner Nicholson: Second.

Chairman Harrison: Motion made and seconded, all those in favor, (All commissioners vote aye.) Any opposing? None opposing, motion passed. **ITEM IV** Item four, Chief John Stafford of the Ola Police Department is requesting that Officer Charles Campbell be allowed to serve in a Part Time capacity. The Commission denied a request at the July meeting to allow Mr. Campbell to return to the academy after his failure from the academy in week two of basic class 2009-B. Is Chief Stafford here? Come forward please. State your name for the record.

Chief Stafford: John Stafford.

Chairman Harrison: Are you Mr. Campbell?

Mr. Damon: I am Major Wayne Damon.

Chairman Harrison: Let me Chief ask Standards where Charles Campbell stands at the present time.

Mr. Marshall: Because they are appealing, he is still on their roster. As far as we are concerned, we are going by regulation 1005 1-(e) which in part states that, "if someone does not satisfactorily complete the basic course the said officer shall not be eligible to serve, be employed or other wise function as a law enforcement officer in this state from that date until the expiration of twenty four months."

Chairman Harrison: And at the time he was going through the academy he was a Part Time II?

Mr. Marshall: No, he was changed to a Full Time. That was the reason he was going through he academy.

Chairman Harrison: OK, Chief.

Chief Stafford: I would like to thank you for allowing me to address the board in reference to Officer Charles Campbell. Charles Campbell cannot be here today due to having an epidural yesterday at the Veterans Hospital. His doctors suggested that he not make the trip due to it being a three-hour drive. Most of you may remember Officer Campbell did fail the police academy class 2009-B. And at the last Commission meeting he was denied a second chance to return. Ola Mayor Jeff Black hired Campbell that same day as a part time street worker. And now is considering to putting him full time at the beginning of 2010 budget year. Because of his hard work and dedication that Campbell has shown. Officer Campbell before attending ALETA in 2009 he did attend a 120 Part Time II Class. And successfully completed the course in 2008. Because of our department being a small department, Officer Campbell asked me about coming going to the Part Time II training and I told him we are a small department and could not afford it. He offered to pay for everything the class required and he agreed and did so. Officer Campbell for two and one half months three days a week drove twenty five miles to the class in another county and back home spending his own gas and time while working a forty hour a week job. I would like to read something from the regulations. Regulation 1012, (3), "Selection and Training-A Part Time Officer II is required to satisfactorily complete the minimum standards for employment or appointment as authorized in Regulation 1002(3) and have satisfactorily completed not less than 100 hours of Commission Approved training which will include a firearms qualification equivalent to the Firearms Qualification Course for Full Time law enforcement officers." Officer Campbell did complete the Part Time Course according to the regulations. Right now we are asking that, Officer Campbell is asking that the board would consider the reinstatement of his Part Time status so that his hours of time and money were not spent in vain. I would like to ask, and I know there are a few chiefs and sheriffs on the board and you know as I do it is real important and hard sometimes to find part time help, and being a small town, and in my past I have not had an officer that has been from the City

of Ola. They come from Pope County or Scott County or other counties. Having Officer Campbell there in the city has really been an asset for our department, and the way he has conducted himself as a Part Time Officer before he attended the academy. The citizens were very impressed with him. They talked about how he conducted himself. Major did you have something you wanted to say?

Major Damon: Thank you, the one point I wanted to ask you to consider and look at the regulation with a slightly different cant, the regulation as I read it appears to be if an officer comes to the academy and is academically dismissed, and can't re-attend for twenty four months, that the underlying intent was that he can't beat the system by going back to the city or the department and say make me a Part Time II and I can still continue to do what I want to do. In this particular case, Charles Campbell was a certified Part Time II Officer. His certification was complete and he had completed all that training. And he was employed by the city as a Part Time II Officer initially. He readily demonstrated that he was so dependable, he lived there. He is the kind of guy who is going to stay there. We have a tremendous problem with turnover rate, that he was a benefit. Because of that they were going to make him full time. He was academically dismissed from the academy. I understand that. But I would like for you to look it, in this particular case, by applying the regulation exactly the way it is written the bottom conclusion, it kind of becomes punitive against Charles Campbell because he did complete all the certifications. I think the regulation was really meant more to be to preventive, to keep someone from running around the system and going back and do that. Officer Campbell is an asset to Ola. He is a very levelheaded individual. He is the kind of individual who is going to stay there. What I am asking is without waiving or changing anything, look at the regulation a little differently in this case since he does posses that certification. Thank you.

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

Commissioner Nicholson: I would like to hear from Standards on this. When this officer, on your regulations, and the regulations of the Commission, is he still eligible to be a Part Time II Officer?

Mr. Marshall: No.

Commissioner Russell: So when he fails out of the academy that takes away his Part Time status?

Mr. Marshall: It takes away all law enforcement eligibility.

Chief Stafford: I would just like to add one more thing. Officer Campbell does not intend to be a full time officer. He is hired by the city in the street department, and he is possibly going to be hired as a full time in the street department. I give you my word, as far as my department, he will not be back here as a candidate for the academy. But we would like to retain him as a Part Time II Police Officer.

Commissioner Walraven: After the twenty-four months, would he be eligible to come back for just Part Time?

Mr. Marshall: Yes sir.

Chairman Harrison: Any comments or questions? Motion?

Commissioner Nicholson: I will make a comment, since no one is making a motion; I understand where they are coming from with this. If he was already a Part Time II, before he came to the academy. The regulation has got me concerned.

Chairman Harrison: But he actually resigned his Part Time position to enter the academy as a full time officer. Is that right Brian?

Mr. Marshall: He didn't resign per se; we were sent a Personnel Change of Status Report. Changing him from Part Time to Full Time. Then he had to attend the academy to be a full time officer. And then failed the academy.

Commissioner Walraven: After the twenty-four months, would he have to go back through the Part Time II Training? Would all he have to do is reapply?

Mr. Marshall: Yes. I don't have the date of when he completed the Part Time II Training, but I believe—

Commissioner Walraven: I believe it was May 2008.

Mr. Marshall: What was the date that he was expelled from the academy?

Commissioner Russell: April 13, 2009.

Mr. Marshall: If it was April he would not have to attend again.

Commissioner Walraven: I guess what my concern is, the fact that yes, he did go through the Part Time school and he did pass it but the first week of the academy he failed academically. And he is still going to be on the street doing the same thing as a full time

officer. I am more inclined to vote to decline it and let him reapply with Standards when his twenty-four months is up.

Chairman Harrison: Is that a motion?

Commissioner Walraven: A motion to decline.

Chairman Harrison: Motion made to deny the request. Is there a second?

Commissioner Nicholson: I will second.

Chairman Harrison: Motion made and seconded. All those in favor, all those not in favor—

Mr. Bolton: Mr. Chairman, I see three and three, either I have missed someone or someone has not voted.

Chairman Harrison: That is what I thought. Let me see hands again for those in favor. (3). All those opposed. (5). The motion failed. We would have to have a new motion if you—

Mr. Marshall: Would have to have a new motion if you changed Regulation 1005? And that would be a permanent change. Am I stating that correctly?

Commissioner Morris: To waive it?

Mr. Marshall: To waive it in this particular case? What sort of precedence does that set then for future cases? I would imagine we would be encouraging more of this. But if that is what you want to do.

Commissioner Lester: So there has never been a waiver in this situation before?

Mr. Marshall: I have never experienced one in the seven years I have been involved in this. Not for something so explicit. That is what I was saying. If you want to do this sort of thing maybe it would be best to change the regulation somehow. It is difficult to operate a Standards Office if we are not giving out the right information. I guess is what I am saying. Because the next person who calls in and says can we do this, well regulation such and such says you can't. And they accept it. Not knowing that if they come before the Commission there is a chance they might have a chance they may be able to not be held responsible.

Chairman Harrison: Any discussion? We have to move on this.

Commissioner Russell: I just think and I sympathize with him, being a sheriff we depend a lot on our reserves and part time folks. I think it is a situation where he was a Part Time II Officer to begin with and apparently did a good job or they would not have sent him to the academy. And once he failed the academy obviously there are standards and I know there are. But I think if he was a Part Time II to begin with, if he would go back to being a Part Time II. And I know there is a regulation. I just can't vote to not do it.

Commissioner Walraven: My problem with it is, lets say it was reversed. He had failed the academy and he was not Part Time II certified. Would we have allowed him to go back and go through a Part Time School?

Mr. Marshall: Not according to the manual.

Commissioner Walraven: And that is the only spot I have a problem with. Would he be able to come back at the end of the twenty-four months? Which we only lack how many months?

Chairman Harrison: How long does he have left before he can come back.

Mr. Marshall: If he was dismissed in April, it would be twenty-four months from April. So it would be April of 2011.

Commissioner Walraven: I think we are going to create a problem with Standards. They are going to have issues both ways. If we allow this, then it looks like you are going to allow someone that fails the academy to be able to go back and go through a part time school.

Chairman Harrison: Setting a precedence.

Commissioner Walraven: Yes.

Chief Stafford: And I just want you to understand the intent. His intent is not to manipulate the system. And that is not my intent. And all I can give you is my word and his word. As we had sat down and talked about this. He doesn't have any intentions of coming back and being a candidate for the police academy as a full time officer. As he there, he is a benefit to our city and our three-man department. That extra part time man is really a lot of stress relief when you get that man to work that extra nineteen hours.

Commissioner Walraven: I understand that. We are a small department of ten men. And I depend heavily on my Part Time and Auxiliary Officers, but I want him to be able to come back to work for you. That is why I am asking if he will be able to come back in twenty-four months. But I do not want to create a problem for Standards in the future.

Chairman Harrison: There will be other people that will make that same request in the future. It does create a problem for them. Any other discussion? Is there a new motion?

Commissioner Walraven: My motion stays the same.

Chairman Harrison: Is there a motion to waive the regulation? Shall we table this for eighteen months?

Mr. Bolton: Mr. Chairman I believe it dies for lack of a motion.

Chairman Harrison: I think that is where we are headed. No other discussion? No other motions? This item is dead. So that means you are exactly where you were when you came in today. You may make another request at another time and wait until the time limit is up and go back through Standards for his Part Time II.

Chief Stafford: I respect your decision. I appreciate you guys. I do have one question. He will not have to take the course over after his twenty-four months?

Mr. Marshall: No.

Chief Stafford: Thank you.

Chairman Harrison: **ITEM V** Sheriff Larry McGee wishes to address the Commission in regard to former student Cainna Tyson who was dismissed from the academy after an incident of cheating on the firing range. Sheriff McGee? Come forward please. State your name for the record and you may make your request.

Sheriff McGee: Larry McGee, Sheriff of Lincoln County, and Ms. Tyson the candidate who was in the academy. If it is all right with the board, I would like for her to open and explain her actions on the day she was discharged from the academy.

Chairman Harrison: You may proceed.

Ms. Tyson: I entered the academy in July and I was at the firing range and I was not passing at the 25 line. But I was passing at the rest of the lines. So I was approached by a student that was in the academy with me. And he told me that the last class before this class graduated, he told me that the last class shot for the other people to help them pass. So it was like an open invitation that he would do it for me, and I was asking him ok, you are telling me they shot in the last class and he told me yeah. So at the 25 line when we were going to hang our target up I was thinking I could do it and pass. So when we were loading up I was thinking I can do this, but when we got to the 25 line to line our target up he fired three rounds. I don't know for sure if he fired or not because I fired my own

three rounds first, but I heard the instructor tell him "You are shooting her target." I didn't see him because I was focused on my target. So when we got to the end of the range we went to the end and my instructor told me he had to count my target and my target only had six holes in my target. So we went back to lunch and went back and finished round for the day. The next day we started out to the firing range and when we got out there an inmate came and told me that someone wanted me back at the campus. So I told the firing range instructor, the one that had fixed the gun, I told him and I came back to the campus and Mr. Paladino told me that I was being discharged from the academy for cheating. I asked him, I was like I really didn't because I agreed but I backed out. I didn't go through with the deal, and so we were still violating the rules because I agreed to it. That is why I was kicked out.

Chairman Harrison: Sheriff do you have any other comments?

Sheriff McGee: Yes sir, I had spoken to Mr. Paladino and he had advised me, and I fully understand and agree with him. A breach of the rules and whether attempting to cheat or cheating, is a grounds for disqualification from the academy. What she had told me and I have and no reason to believe that she was falsified or lying. There was a conspiracy or possibly a degree of conspiracy as I apply due process and I understand we are not bound here by due process. But as I apply due process, I don't know if the conspiracy was completed or from the information that I have gathered it wasn't completed, she did tell him not to. I did have the other problem that she had qualified on the last round of the firing. The day we are talking about that she was pulled from the range, she had fired six rounds and the person supposedly helping her had fired six rounds and there were only six holes in the target. But yet she qualified on the last fire. From the information that I have. The academy may have more information, I know there is an integrity issue here and I firmly believe and back the integrity rules. But I am not sure that I agree of the conspiracy and this twelve rounds in the target and qualifying the day before and only six rounds after the final shooting is what I have a problem with. But I respect what the board's decision is and that will be final.

Chairman Harrison: Any questions or comments from the Commissioners?

Commissioner Lester: I have a question. I read this twice. I need to ask Mr. Paladino a question. If the instructor was standing behind the gentleman next to her and could tell that he was shooting at her target, why couldn't he tell if she was shooting at her target or not?

Mr. Paladino: My understanding from the instructor was that he saw standing next to her shooting at the wrong target and informed him that you are shooting at the wrong target. He didn't pay any attention to Ms. Tyson and what she was doing at the time. He was focused on Mr. West.

Commissioner Lester: So it is possible that she shot six rounds somewhere?

Mr. Paladino: Yes sir. She said she did shoot her six rounds.

Chairman Harrison: Any further questions or comments?

Commissioner Morris: Standards could she apply again in twenty-four months?

Mr. Marshall: Yes. Maybe I should leave that to Mr. Paladino because of the integrity issue. Will that change things at all?

Mr. Paladino: No sir.

Chairman Harrison: Motion?

Sheriff McGee: If I may comment on this, her employment will be determined by the board's decision.

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

Commissioner Morris: I second.

Chairman Harrison: Motion made and seconded to deny the request. All those in favor, (A majority vote aye.) Any opposed? (One opposed.) Motion passed. Sheriff your request is denied. **ITEM VI** Item six, Chief Eric Evans wishes to address the Commission in regard to former student Carnell West who was dismissed from the academy after admitting he shot basic student Cainna Tyson's targets during qualification week. Chief Evans.

Chief Evans: Yes I am Chief Eric Evans of the Dermott Police Department, and I have Officer West who was involved in the incident. He has another outlook on the story you have just heard, and I would like for him to explain to you what he had told me.

Mr. Evans: On this day that or the following day that we were dismissed from the academy, Officer Tyson had came while we were on the range, Officer Tyson came to me and said she was having problems at the 25, and asked me if I would shoot for her. At that time I saw how frustrated she was, and that she was really trying to qualify, and I said yes, I will shoot for you at the 25, but I won't go any further than that. And so I did shoot at Ms. Tyson's target from the 25, and when I talked with Mr. Paladino, I explained to him exactly what happened, just as I am explaining to you. I understand it was a mistake and I was acting basically what I have been doing for a while. If I see someone or another officer who needs help, and I was in the military, if a soldier needed

help, without thinking I would just go and try to help them out. She was so frustrated, so that is why I helped her. I didn't realize at the time that it was so serious, and after I did I apologized to Mr. Paladino; I apologized to the Chief for my actions. But my intent was only to help her. To get through that part. I really didn't look at it as cheating at that time. I looked at it as trying to help a fellow officer. That is how I really looked at it. I did shoot at her target. Yes I did.

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

Commissioner Keaton/Martin: Suppose I was at the firing range and asked for help. Would you help me?

Mr. West: If you were—like I said at the time when she requested—

Commissioner Keaton/Martin: We are talking about me, forget about her. If I was on the firing range and I need help, would you help me?

Mr. West: Now would I help you, no ma'am. Because I know they would, no, I was not thinking at the time. But now that I know that this cannot be done no I could not do that.

Chairman Harrison: Any other questions?

Commissioner Lester: How many times did you shoot your target?

Mr. West: At the twenty-five?

Commissioner Lester: Yes.

Mr. West: None.

Commissioner Lester: So all six of your rounds went into her target?

Mr. West: Yes sir.

Commissioner Lester: So let me ask you this, this is from the interview you had with Mr. Paladino. "I stated to Ms. Tyson I would only shoot at the target one time. That she would have to do it herself." Then over here you say, "I told her well I will try to shoot the first five rounds for you on your target." And you actually shot at six. What happened that made you decide at what point that you were going to shoot one time at five times or six times?

Mr. West: She was saying that she couldn't make it from the twenty five and you shoot six times from the twenty five. You have six shots.

Commissioner Lester: I understand that.

Mr. West: So that was my understanding with her. I would shoot your target at the twenty-five, six times.

Commissioner Lester: But that is not what you told Mr. Paladino.

Mr. West: I said I shot at the target.

Commissioner Lester: No, you said one time and you went to five times. And then you actually shot six times.

Mr. West: I confessed to Mr. Paladino I shot at her target from the twenty five, five, six times. Six shots from the twenty-five.

Chairman Harrison: Any other comments or questions?

Commissioner Morris: What is the rule about allowing him back into the academy? I make a motion that we deny it.

Commissioner Lester: I second it.

Chairman Harrison: We have a motion and a second, all those in favor, (All commissioners vote aye.) Any opposing? None opposing. Chief the request is denied. **ITEM VII** Sheriff Bruce Pennington wishes to address the Commission in regard to Leslie W. Bean. Officer Bean had previously been employed by the Saline County Sheriff's Office under a previous administration. Sheriff Pennington is requesting a waiver of the "Seven Year Rule." Sheriff come forward please sir. State your name for the record.

Sheriff Pennington: Bruce Pennington.

Chairman Harrison: State your request sir.

Sheriff Pennington: First and foremost I would like to thank you for the opportunity to be here. A lot of you I know and have seen and I do appreciate it. The reason I am here is and asking this, I have known Wayne Bean for a number of years. I first met Wayne when I was a Sergeant with the State Police, supervising Saline, Grant and Hot Spring Counties. And Wayne was a Deputy Sheriff. I watched him go up through the ranks

while there and achieving the rank of Lieutenant. I as well as a lot of other law enforcement agencies in the state suffer from funding for additional officers and such. Wayne has come board as a reserve. As a matter of fact, he has turned our reserve unit completely around where it is a now; a professional reserve unit. He attended the reserve school, which I believe is a 120 hours. Completed that and having watched him through the process of him coming back on at the sheriff's office to be able to see him retain the knowledge of law enforcement, being able to utilize his knowledge has helped us tremendously in different training areas. As we all know with young deputies or city officers having a mature individual such as Wayne on board has really helped us in our reserve. And would be beneficial in my department if he were to be reinstated.

Chairman Harrison: Standards would you tell us where he stands and how long he has been out?

Mr. Marshall: He was last in full time status in Saline County on December 31, 2000. Are you saying he is an Auxiliary right now? We have no record of that.

Mr. Bean: There was confusion when I took over the Auxiliary Department of the Reserve Department when I took over on June 26th. Two weeks ago, when doing the records check, all F-1s for the entire course was still in there. They had never been sent out. I approached the Chief Monday and they are working on that now. They should have them this week or next.

Mr. Marshall: I was just saying we didn't have any record of it. And that is fine. But he was last in full time status, December 31, 2000.

Chairman Harrison: He has been out for nine years. Mr. Bean do you have any comments you would like to make?

Mr. Bean: I have one letter, from former Sheriff Judy Pridgen. Commission if you wish, I appreciate you hearing me and would appreciate it if you would give me a shot.

Chairman Harrison: Any comments?

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

Commissioner Walraven: I second.

Chairman Harrison: We have a motion made and seconded. All those in favor, (All commissioner vote aye.) Any opposing? None opposing, motion passed.

Sheriff Pennington: Thank you very much.

Mr. Bolton: Sheriff, you are aware that he has to attend the Refresher Course.

Chairman Harrison: A Forty-Hour Refresher Course.

Sheriff Pennington: Oh yes, it will do him good.

Mr. Bolton: And he can get with Director Paladino about the dates since we are conducting one this week. So I am not sure when the next one will be.

Sheriff Pennington: We will do that.

Chairman Harrison: **ITEM VII** Craighead County Judge Dale Haas wishes to address the Commission in regard to Environmental Officer George Johnson, who serves as a Specialized Officer. Is Judge Haas here?

Ms. Johnson: I am Judge Haas' Administrative Assistant.

Chairman Harrison: Have a seat and state your name for the record please.

Ms. Johnson: Rita Johnson. And I am going to read a letter from Judge Haas. He could not be here today. "Dear Commissioners, as the decision was made to send Mr. Johnson to the law enforcement academy, I considered the time and expense involved in a fourteen week program rather than a shorter course. However, I determined that if he were willing to go to a longer course the county would be better served by him being a basic certified officer, as described in Arkansas Law 14-15-102. According to the guidelines as an environmental officer. The 14-week program also created extra time spent at night answering calls that had to be addressed because his officer does not have additional staff. He completed his course successfully and performed his job duties for Craighead County efficiently during his training period. I discussed this matter with Craighead County Sheriff Jack McCann, and he and I agree that Mr. Johnson should be classified as a Basic Certified Law Enforcement Officer for this position instead of a Specialty Officer. I respectfully request that you consider Mr. Johnson as a Basic Certified Law Enforcement Officer. Sheriff McCann and I both believe this will best serve the needs of Mr. Johnson's position as Craighead County's Environmental Officer. Sincerely, Craighead County Judge. Dale Haas." And I have Mr. Johnson with me. And he has a little packet and the cover is this letter that I have just read from Judge Haas.

Mr. Johnson: Mr. Chairman, may I pass these out to the Commissioners at this time? Mr. Chairman the reason I am making this request, is based on state Statute 14-15-102. Which everyone has a copy of. I won't bore you with reading that. The second paragraph says, "The environmental officer may complete the training course for law

enforcement officers at the Law Enforcement Training Academy. After satisfactory completion of said course the environmental officer shall be a law enforcement officer.” We believe the legislative intent of that is very clear. Why would they send a specialty officer to a 604-hour course? I have already had the 110-hour course. Also the 604-hour course. But yet I was denied by Standards.

Commissioner Lester: What were you denied sir?

Mr. Johnson: The Basic Certification, sir.

Commissioner Lester: You were denied the right to go to the academy?

Mr. Johnson: No, sir. I attended and completed the fourteen-week academy. In fact out of a class of 44, I ranked 22nd at age 62. So I am kind of proud of that. I just don't believe the intent of the legislature was followed at all. In fact in Regulation 1012 of the Specialty Officer, it calls for a 110-hour course and that is all. Is that not correct Mr. Marshall?

Mr. Marshall: For a Specialized Officer, yes sir.

Mr. Johnson: I was classified as a Specialized Officer after the completion of a 604-hour course. Also Specification 20 addresses the same issue as a Specialized Officer. In Regulation 1001 definition 9 and 10. We believe that our department qualifies as a law enforcement officer. I believe I qualify as a law enforcement officer in definition 9. Every time the legislature meets we get more and more laws. Such as State Statute 8-17-1401 Control Substance Contaminated Property Clean up. And Sheriffs and Chiefs I don't know if you are aware of this law. But when people manufacture meth in a house, they can't live in that house until it is cleaned up by a certified clean up crew. It is against the law. We have to deal with the methamphetamine trade. I deal with them every week. Also we have a new bill just recently passed, House Bill 1327. If meth is manufactured in a car it has to be crushed. So we are enforcing the traffic laws of the state. We have flow control ordinances. Mr. Marshall's contention was that I was not an officer and I do not do any criminal work. I asked him, we have in the larger departments, we have homicide officers; do they enforce traffic control? I think not. So I am asking the Commission to give me a basic certification. That is all I want.

Commissioner Walraven: Do you work under the County Judge or do you work under the Sheriff?

Mr. Johnson: I work under the Sheriff's Department. And I am glad you mentioned that.

Chairman Harrison: Mr. Marshall, with Standards, we need a report from you please sir.

Mr. Marshall: I didn't want to interrupt sir, go ahead.

Mr. Johnson: The solution to the problem from Standards was over a speakerphone, and by the way this is my wife, Ms. Johnson is my wife also. Just move my line item over to the Sheriff's Department and no one would know and it would be OK.

Chairman Harrison: Mr. Marshall:

Mr. Marshall: This all came about when we received an F-1 from the Craighead County and I assume it was the Craighead County Judge, listing him as a Specialized Officer starting on June 1st, 2007. Prior to that he was an Auxiliary Officer with Craighead County from June '99 to May of '03. He did have the proper training to be a Specialized Officer. And we had received a request for a Basic Certificate after he had attended the full basic course at Black River. He is listed as a Specialized Officer so he is not eligible for a Basic through Senior Certificate. And I believe we sent an F-9, a response form to that request saying he could not have one because he was specialized and not a full time officer. Quote unquote "Full Time Officer." That is when I believe you sent us the F-4. Changing him from Specialty to Full Time Officer. I voided that and called Ms. Johnson and advised her that he was not eligible to be a full time officer. That was in August. I'm sorry, that was in July of '09.

Chairman Harrison: Did the F-4 come from the County Judge's Office or the Sheriff's Office?

Mr. Marshall: It says Craighead County Judge on the top. We talked on the phone and I thought, I might have said to you, if he was working for the county, the Sheriff's Office as a full time officer, that is one thing. And if they wanted him to enforce the environmental rules as a full time Sheriff's Officer, that would be fine. As far as we are concerned. But right now he is a Specialty Officer working for the County Judge and enforcing environmental crimes. I thought that was the end of it. And it wasn't, I received a letter, I think you all have a copy, in August 27, of '09 from Ms. Johnson, stating 14-15-102. And Mr. Johnson has already read this to you. It specifically states that he is an environmental officer and can only enforce the environmental rules that are on the statute. Which makes him a Specialized Officer. I called Ms. Johnson after I received the letter and basically we talked about the same thing. And you said you wanted to appeal the decision. And that is fine. The next thing I will say is that I got a call from Bill Stovall, House Constituency Services. And I guess he was requested by Representative Kidd maybe, he wanted information about this. So I basically explained to him what I have explained to you. And he said well why can't he carry a gun? And I told him he could carry a gun as far as I was concerned, this has nothing to do with a gun as far as I know. Is that what this is about? He said that was his understanding. I have read 14-15-102 and he can carry a gun as far as I am concerned. And again I thought that

was the end of it. Then we received a Freedom of Information Act from Mr. Johnson. We responded and I think he included some of the things in the hand out. I don't see any way around 14-15-102. He is an environmental Officer and hence, Specialized and not eligible for a basic through senior certificate. I will say Constables attend the full basic course; it is not unusual for someone who wants to have extra education to get extra education.

Mr. Johnson: Well are they classified as a basic officer then?

Mr. Marshall: No sir, you are a specialist.

Mr. Johnson: No sir, I am talking about a Constable after he attends the 604-hour course?

Mr. Marshall: No he is not eligible for a basic through senior certificate.

Mr. Johnson: Is he certified?

Mr. Marshall: We don't certify Constables. They are elected officials.

Mr. Johnson: I still think the intent of the legislature gentlemen, and maybe the legislature needs to revisit this, is for me to be a Basically Certified Officer. I am the only Specialty Officer that they will let go to the full academy. I have done all the training and to suggest that I move my line item is a little over in left field.

Chairman Harrison: Mr. Johnson are you paid the County Judge's Office or by the Sheriff's Office?

Mr. Johnson: I am paid by the County Judge's Office.

Chairman Harrison: The County Judge's Office is not a law enforcement agency.

Mr. Johnson: Well the Department of Environmental Services which, is under the County Judge's umbrella is. Under your own definition.

Chairman Harrison: But do you understand as a Specialized Officer, you have the same arrest authority and the same rights that a law enforcement officer, you are specialized to be an environmental officer. Do you understand that?

Mr. Johnson: No I do not. I disagree with you about that Mr. Chairman. What if I see a felony going on at a convenience store where I am stopped? Is that an environmental crime?

Chairman Harrison: No sir it is not.

Mr. Marshall: I would imagine that you would have the same rights of any other citizen. For a citizen's arrest.

Commissioner Morris: We have got the same problem with the forestry guys who have brought it up a few times.

Mr. Johnson: Well the Game and Fish Commission has been through this a few years ago and they got special legislation passed to make them certified officers.

Mr. Bolton: Mr. Chairman, I think the reason that they had to do that and the reason for this disagreement today is that the regulations in the Arkansas law says, a law enforcement agency, to be a law enforcement agency you have to primarily be involved in the enforcement of the criminal and traffic laws of the State of Arkansas. And that is where the conflict begins.

Mr. Johnson: The environmental laws for the information of the Commission, we have the third toughest set of environmental laws in the United States. They are very little enforced, but we have statutes this thick about environmental laws. My fines are not twenty-five dollars no seat belt fines. They are twenty five thousand dollar fines, gentlemen. I am also certified by the ADEQ as an Illegal Dumps Officer. Yes that is a Specialty Classification. I don't disagree with Mr. Marshall with my ADEQ Certification, but after I attended the basic academy I think I have the right to be a certified officer, and Sheriff McCann has no problem with it, and for me to just move a line item of where I get paid, that is pretty immoral, guys. My training is the same, my abilities are the same, but to just to move a line item to keep me from being a basically certified officer is not correct. It is not right.

Chairman Harrison: Standards, how do we accept an F-1 or a F-4 form or any other documentation from a County Judge's Office or any other entity that is not a law enforcement agency? How do you recognize that?

Mr. Marshall: We have to do it, my understanding is based on 14-15-102, once that was implemented, we had to create a specialized law enforcement entity for them.

Chairman Harrison: A Specialized, I can understand that, but this is full time.

Mr. Johnson: I am full time sir.

Mr. Marshall: I don't see how you can. The Specialty has to do with the type of laws you enforce, not how long you work. Full time is kind of a misnomer.

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Mr. Johnson: You put me in the same category as an Auxiliary Officer and a Part Time II Officer. That is exactly the certification I am getting. I am a Full Time Officer. I have completed the academy—Gentlemen-----

Mr. Marshall: Regarding your question, there is a letter at the back of your packet. It is dated June 7, 2004, and it is from Jim Ecker and he is with the Benton County Environmental Services.

Mr. Johnson: I am sorry sir, he is not there.

Mr. Marshall: In 2004 he was. He first raised this issue with our office and he wanted to be recognized as Specialized Police Officer, his people, and Mr. Satkowski who had the position that I have felt that this was a valid request and that is how the Specialized Officer status was initiated. At this point and time, I believe Benton County and your county are the only ones that we have files for right now. In Benton County I think there are three officers who are specialized, and you sir, are the only one in your county.

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

Commissioner Russell: So it is my understanding that it is the simple fact that he is not considered under the Sheriff's Office, which would not make him a full time officer.

Mr. Marshall: My feeling is that if he did work for the Sheriff's Office and part of his duties were to enforce the environmental rules, then if he was a full time officer and that was a part of his duties, I would assume, just like a sheriff, if a sheriff wants to assign a full time to be a Bailiff. Normally we consider a Bailiff as a specialized position. But if a Sheriff decides he wants to assign a quote unquote "Full Time Officer" to those duties, that officer is still a full time officer.

Commissioner Russell: So it would simply be the fact of changing it to the Sheriff's Office? I am assuming.

Commissioner Morris: But you don't want to do that?

Mr. Johnson: Why should I? Why should we circumvent?

Commissioner Walraven: Because you are not working for a law enforcement agency when you are working for the County Judge. You have to work for the Sheriff's Office a police department or State Police.

Mr. Johnson: I agree with that somewhat. Where does the Sheriff's funding come from? The county general.

Commissioner Walraven: Where does my funding for the city come from?

Mr. Johnson: The Department of Environmental Services comes from the County General also. I work for myself. The County Judge doesn't tell me where to go and what to do every morning.

Commissioner Nicholson: You work under the authority of the County Judge?

Mr. Johnson: Yes.

Commissioner Russell: And I think that is what it all comes back to. It would be a very simple thing to do. And yes most of my funding comes out of the County General. And if I wanted you to be an Environmental Officer with my agency, I would simply call the County Judge and tell him to put you under my umbrella instead of the County Judge's umbrella and that would circumvent all this other stuff we are dealing with today. And I guess I am curious why you don't want to put yourself, for lack of a better way of saying it, under the umbrella of the Sheriff?

Ms. Johnson: I can respond to that. He is also the Craighead County Flood Plain Manager. So he needs to be at the courthouse instead of the Sheriff's Office. Although we do provide him with a vehicle with all the radios and the communication equipment that a deputy has. And Craighead County is kind of spread out. We have big Jonesboro right in the middle. His calls take him to maybe some remote areas so works with the Sheriff's office all the time. However, because of the budgeting and the appropriations of our money each year, we have to keep his separate. Because there are some situations where he applies for some grants for tire clean ups. Craighead County has the largest illegal tire dump in the State of Arkansas. And just numerous problems that really the Sheriff doesn't have any knowledge of the laws and regulations in those areas. And the County Judge's office has more. We certainly do not know them all. We rely on whoever has that position. And this in this case it is George. To be aware to of those things. But when he goes out on one of these other calls, then there may be something where it involves the Sheriff's Office where there is—and he does find a lot of meth activity, and the Sheriff is brought in. He works real well with them, but we don't want to create a situation ---if we shifted all of George's expense over to the Sheriff's Office, he really doesn't work for him. He works for—he does these other things. It is not a true picture of what it costs to operate the Craighead Sheriff's Office. That is our reason. That is our big thing.

Mr. Johnson: My budget is about ninety thousand dollars at of my office.

Commissioner Russell: Here again, I still haven't made you understand that may be true but for you to be considered, in my understanding, for you to be a full time officer that has completed the basic academy that now has a basic certificate, for being a police officer, it has to fall under the Craighead County Sheriff's Office, Or the Little River County Sheriff's Office, or the Howard County Sheriff's Office.

Mr. Johnson: Under Standard's own definition, of a law enforcement unit, does it require it to be a sheriff's office? Or a city office? And this is Standard's own definition of what a law enforcement unit is.

Commissioner Russell: I am reading what you even handed me. It says in there that you enforce environmental laws, you write citations for environmental problems, you check on landfills and check on dumps. Well I have deputies that can do that every day. That can go find a dump and write someone a ticket for dumping, and I guess my point to you is that if you want to be a basic officer and I admire you for what you do, I probably would be sitting here doing what you are doing, but it appears to me you don't want to fall under the sheriff's office. That you had rather fall under the county judge's office, that according to Mrs. Johnson has no control over you. They don't tell you what to do or tell you where to go. I can't see the Sheriff telling you what to do or where to go.

Mr. Johnson: No he wouldn't.

Commissioner Russell: You have your laws and things that you have to do. I guess I feel like if you want to be a basic police officer, and go out and enforce the laws and do the things you want to do, it is very simple to move a line item from this place over here to this place over here, and you don't seem to want to do that.

Mr. Johnson: I think it is immoral and is unethical. I am super venting the system by doing that.

Chairman Harrison: Any other comments from any of the commissioners? Motion?

Commissioner Russell: I am not sure how to do my motion, that it be denied, I guess.

Chairman Harrison: We have a motion.

Commissioner Walraven: Second.

Chairman Harrison: We have a motion and a second. All those in favor, (All commissioners vote aye.) Any opposing? None opposing. Tell Judge Haas his request was denied. You are still a Specialized Officer, Mr. Johnson.

Mr. Johnson: That is the question that I was going to ask before I left, and I do appreciate you listening to me. I really do. Maybe the legislature needs to meet again and more clearly define it. Will Standards send me an approval of a Specialty Officer? You didn't the last time.

Mr. Marshall: That is because that is not what you requested. If you send us a request for a specialized certificate we will send you a specialized certificate.

Mr. Johnson: I will have to reapply.

Mr. Marshall: Not reapply. You have to initially apply for a Specialty Certificate.

Mr. Johnson: Thank you gentlemen, I appreciate you very much.

Chairman Harrison: **ITEM IX** William G. Roach was employed with the Russellville Police Department until he was terminated after an Internal Affairs Investigation regarding the violation of state statute and City of Russellville Police Department Rules and Regulations. The Russellville Police Department is requesting decertification of Mr. Roach. Is someone here from the Russellville Police Department? Come forward and state your name for the record please.

Mr. Humphrey: Jeff Humphrey.

Chairman Harrison: Proceed sir.

Mr. Humphrey: Probationary Officer William Roach came to work for us in December of 2008. On July 25th of this year, there was a criminal complaint filed against him for aggravated assault by the Arkansas State Police. After we were informed of that we did an internal affairs investigation. Two days later the internal affairs investigation felt he had violated standards of conduct of the police department, state law and he was terminated July 28th, the next day. The Chief has requested that he be decertified.

Chairman Harrison: Any questions or comments from the Commissioners?

Commissioner Nicholson: Well this is to set it up for decertification. I make a motion that we set this up for a decertification hearing.

Commissioner Lester: I second.

Chairman Harrison: We have a motion and a second. All those in favor, (All commissioners vote aye.) Any opposing? None opposing. Your agency will be notified when the hearing date is set.

ITEM X Former Officer Jonathan McClain was employed by the Rogers Police Department until he was dismissed after an incident at the airport where he identified himself as being there on official business when in fact he was there to pick up his daughters. The Rogers Police Department is requesting decertification of Mr. McClain. Is there anyone here from the Rogers Police Department?

Mr. Bolton: Mr. Chairman the Chief of the Rogers Police Department did call and said he had a conflict come up and he would not be able to be here today but that he does want to have a hearing on this officer and would definitely be present should a hearing take place.

Chairman Harrison: Any comments from any of the commissioners? Is there a motion to proceed with a decertification hearing?

Commissioner Keaton/Martin: I so move.

Commissioner Nicholson: I second.

Chairman Harrison: Motion made and seconded. All those in favor, (All commissioners vote aye.) Any opposing? None opposing. We will set Jonathan McClain for decertification. **ITEM XI** Former officer Michael Isaac was employed by the Ft. Smith Police Department until he was terminated for an incident involving the arrest of a subject and it was believed that he used unnecessary violence during the arrest. The Ft. Smith Police Department is requesting decertification of Mr. Isaac. Is someone here from the Ft. Smith PD? Did they call?

Mr. Bolton: No sir.

Chairman Harrison: Any discussion from this request?

Commissioner Walraven: I have read everything they have in here and I can't go with voting for decertification. Even with their own newspaper clipping, the Chief wouldn't recommend him being fired. He has been employed since 1998-'03 in Oklahoma and from '03 to '09 at Ft. Smith. Yet I don't see any kind of history of any problems, there is just not enough here for me.

Commissioner Nicholson: I make a motion that we table this and give the Ft. Smith Police Department a chance to have a representative here before we proceed with this matter.

Commissioner Golden: I second.

Chairman Harrison: We have a motion and a second to table this matter, all those in favor, (All commissioners vote aye.) Any opposing, none opposing. Motion passed to table this item from Ft. Smith.

Commissioner Russell: Could I make one comment Mr. Chairman? To the commissioners, just go back and read all of this, and read it very thorough. I know some of you are not law enforcement officers, just keep in mind that even the officer making the complaint, claims he didn't think he did any thing that bad wrong. The Chief is talking about they would not have fired him either. Please keep that in mind while you are reading it.

Commissioner Nicholson: That is why I wanted to have a representative from Ft. Smith PD to be here. I would like to hear, if they don't show up, that will probably explain it.

Chairman Harrison: **ITEM XII** Former officer Daniel Ross was a probationary officer assigned to the undercover unit. Ross admitted to providing confidential information to outside parties. Ross also initially lied regarding his culpability. The Ft. Smith Police Department feels this officer should be decertified. Anyone not being here from Ft. Smith, is there any comment from the commissioners on this request?

Commissioner Morris: It sounds serious to me but I would like someone to be here. Table it and set it for a hearing and see if they will come.

Chairman Harrison: Motion made to table it, is there a second?

Commissioner Nicholson: Table to see if a Ft. Smith representative will be here. I will second.

Chairman Harrison: Motion made and seconded, all those in favor, (All commissioners vote aye.) Any opposing? None opposing. Item twelve is tabled until the next meeting. **ITEM XIII** Mayor Fred Culclager of the Town of Wabbaseka is wishing to address the Commission in regard to a Psychological Examination for Chief Deshawn Bennett. Is the Mayor here? Would you state your name please?

Mayor Culclager: My name is Fred Culclager of the City Wabbaseka.

Chairman Harrison: Mayor you may proceed with your request.

Mayor Culglager: Commission what I would like to request for Police Chief Officer Bennett. I received a letter a little while ago, after he had taken his behavior test, and everything went good except that he was too aggressive. I did not understand that. My experience with him and others that have worked with him have not seen that in him. Doing his duty, he has been a great asset to the City of Wabaseka, which is a small town. We hired him back in January. I had a Police Chief at that time. He was terminated and after that Officer Bennett became my interim chief along about April of '09. During his tenure I have run track on him and I have not had any thing derogatory about him in making arrests and upholding the law in the community and what have you, and he has been really committed in that town there. As a matter of fact before he came here he was in the next town, down at Altheimer, Arkansas. He worked there and then he came down to our end. But I would like for the Commission to consider if they would if he needs to take another test.

Mr. Bolton: Mr. Chairman, I would for the sake of the new commissioners, our regulations do require that agency appear before the Commission for permission to administer a second test after an officer fails the first one.

Chairman Harrison: They have the option of doing that if there are extenuating circumstances.

Mr. Bolton: The rule says they must seek permission from the Commission to obtain a second test.

Commissioner Russell: I am assuming it would be a different psychologist.

Chairman Harrison: "The results of the first examination would be binding. When the original examiner determines that additional tests are needed, the additional tests or interviews will be considered a part of the original examination. If extenuating circumstance exist, that create a doubt as to the validity of the results of the first examination, the employing agency may petition the Commission for the approval of a second examination to be administered by a different examiner."

Mr. Bennett: Mr. Chairman, I have been employed by the Altheimer Police for about a year. They had not even done one on me. I have been in law enforcement about a year and a half. After the old chief moved, after he left, I called the deputy director and got a commission book and looked and tried to read a lot of stuff and figured out that you had to have that before you are even employed. I had already been in for about a year and a half. Then when I got the results back and it showed me to be aggressive or had

aggressive behavior or something like that. We came to this point on 1002 in the Executive Manual on Section (g) that we bring it before you guys.

Commissioner Walraven: You have been employed full time for a year and one half?

Mr. Bennett: No sir. Full Time for about four months. I have already been to the Part Time II through the Sheriff's Department and got certified.

Commissioner Walraven: Was there a psychological done on you then?

Mr. Bennett: No sir. I was still working for Altheimer. And the sergeant never told me anything about it. He just sent me to the class. When we did our paper work there was nobody there. The Chief had already left. He was not doing what he was supposed to be doing. I did not even have an application in. So I had to try to figure out all this by myself. So I just went on with what was written on my Altheimer application. Then I got the book, and found out all this had to be done ahead of time. Way ahead of time.

Chairman Harrison: Standards.

Mr. Marshall: I would like to comment; this type of thing normally comes to our attention when we do an audit of a department, and we usually try to do audits on a five year rotating basis. Chief Bennett started with Altheimer in March of '08 and left there January of '09 and he was Part Time II there, in March of '09 he went to Wabbaseka as a Part Time II. He went to Interim Chief as a Part Time II Officer, and then Full Time in May of this year. This would not have come to our attention had not Chief Bennett inquired about it, and when he received the non-recommendation from the psychiatrist. He called our office and talked to Brian Johnson in our office and asked to come up to the office and talk with us, which he did. We had a good conversation. The manual states that extenuating circumstances he can ask the commission for another examination, and that is what we recommended at the time.

Commissioner Russell: If it is time to make a motion, I will make a motion that he be allowed to take a second test.

Commissioner Nicholson: I second.

Chairman Harrison: Motion made and seconded to allow another psychological exam. All those in favor, (All commissioners vote aye.) Any oppose? None opposing. Motion passed. Mayor you need to find another psychologist and have a test done pretty quick, and get that to Standards.

Mayor Culclager: We will. Thank you all.

Chairman Harrison: **ITEM XIV** Item fourteen, Sheriff Danny Hickman is requesting a waiver of the “Seven Year Rule” for Deputy James Arnold. Is the Sheriff here?

Sheriff Hickman: Thank you all for letting me come before you. I am Danny Hickman for the record. I have here with me Deputy James Marc Arnold. Marc has been in law enforcement for quite some time. He joined the Air Force in 1985 and was in law enforcement through that. He left there in 1989 and joined his family for a short period of time with the family business and then he started in the police work at the Harrison Police Department in 1992 and stayed there until 1999. When he had to return to the family business for a short period of time. He had kept his hand in police work the whole time. He left in May of ‘99 and joined the Sheriff’s Department in 2006 and took the Reserve Class. That was in April 2006. So that was just about a month within the seven-year period. He has been very successful with me. He has been promoted to Sergeant in the Reserves. He was in CID at the police department. There was an opening in my department, in CID and that is where he is today and doing a great job. We have two letters of recommendation, from a Circuit Judge and a District Judge. Both of them were prosecutors and had worked with Marc and if you would like to see the letters or we will read them. We are just requesting that you do the waiver and let him go to the forty-hour course.

Chairman Harrison: Standards, where does Mr. Arnold stand at the present?

Mr. Marshall: To be a little redundant, the Sheriff said he left full time in May of 1999 and he came back as an Auxiliary in May of 2006 and he was an Auxiliary until July of this year when they made a full time officer. He also became a Part Time II with the Omaha Police Department, February of ’09. So again per the manual he has been ten years out of full time law enforcement. That is where he stands.

Chairman Harrison: Any comments or question from the commissioners?

Commissioner Lester: What is the family business?

Mr. Arnold: We drill water wells and service the equipment that goes in it.

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

Commissioner Morris: I second.

Chairman Harrison: We have a motion and a second to waive the seven-year rule. All those in favor, (All commissioners vote aye.) Any opposing? None opposing motion passed. Sheriff motion passed and you will have to get with the academy for the forty-hour refresher.

Sheriff Hickman: Thank you all very much.

Chairman Harrison: **ITEM XV** Item fifteen, at the April 2009 meeting the Commission voted to go forward with the decertification of Lonoke County Deputy Charles Edwards. Lonoke County had no forwarding address for Mr. Edwards and when contacted this week, still has no forwarding address. At this point the Commission is in need of a vote to “Red Flag” Mr. Edwards’ files. Is there a motion to “Red Flag” Mr. Charles Edwards?

Commissioner Russell: I make a motion that we “Red Flag” his files.

Commissioner Morris: I second.

Chairman Harrison: Motion made and seconded, to “Red Flag” Charles Edwards’ files. All those in favor, (All commissioners vote aye.) Any opposing? None opposing, motion passed. **ITEM XVI** Item sixteen, Chief Glenn Leach and Mayor Ron Kemp of the City of Rector wish to address the Commission in regard to Chief Leach’s law enforcement training. Mayor.

Mayor Kemp: Ron Kemp, Mayor of the City of Rector. And I certainly appreciate the opportunity to come before you today. I have a brief statement I would like to read to day with your permission. And I think our state representative, maybe has a brief comment. “Glenn Leach began his career with the Rector Police Department on June 1, 1978. He has performed those duties since that time without interruption, which is one thing I wanted to stress, for thirty-one years without an interruption he has served in the police department in Rector. He has always thought education and continuing education was important and his record reflects that. Since 1978 he has taken courses in several states, has 115 hours of college credits. He has official training of approximately 600 hours and his personal records show approximately 1300 hours. He submitted those certificates and is working to obtain agendas for those programs, so they can be accepted and credited to his official record. I think in your packet you see a list of those courses, which I think is quite impressive. In our department, he has been assigned the task of developing and implementing a computer system for record keeping which has been very successful and functioning very well. He has been our lead investigator and was in command when the previous chief was not available. I also have a letter that we have from Grant Davis, Prosecuting Attorney that worked many cases with Chief Leach as a reference work ability. I am here today to request that his thirty one years of experience

and obvious commitment to education and training, that he be allowed to take a refresher course to obtain his full time certification. On a personal note, I would say I have total confidence in his ability. I have known him for over thirty years. I have been mayor for too many years, fourteen years and he has done an excellent job in our department. And he has the full confidence of the community and I would like to make that request. Mike do you have a comment you would like to make?

Representative Mike Patterson: I am Representative Mike Patterson from Clay and Green County. I would like to say that I would not be here today if I did not think that Glenn could do a good job at this being a police officer. I know for a fact that he has done a great job. Personally about twenty years ago I was in an incident. My wife and myself was in a situation there in his town. We had a problem with a man who had plenty of money and the man told everyone that he could buy the police off and could buy the judge off, and he could buy everyone off. And when we got into a situation where there were two State Troopers and Glen Leach and me and my wife. I turned around and one of the State Troopers took off and Glen Leach and one State Trooper stayed with us until everything was over with. Until this day I don't feel like we would be here today if it was not for the leadership of Glen Leach. And I appreciate everything you all do here. I think we have one of the top-notch facilities in the state and I would not be here to speak for him not to go to that thirteen-week school if I didn't believe he could do a good job for the state, but I know we would like to have officers like he is and I appreciate you letting me say that. Thank you.

Chairman Harrison: Standards, where does he stand at this point?

Mr. Marshall: Well this matter with our office first started out as Chief Leach being transferred from Part Time II to Chief in August 26, of '08. He had started as Part Time in June '78. Our records indicate that he took a reserve course, a Reserve Part Time II Course of forty hours in 1980. As you all know you are required when you are changed to full time status you are required to take the full basic course within one year of being appointed full time. His time was running short and the Chief asked for an extension and I wrote a letter and I think you have it, dated July 20, '09 stating that before I could grant an extension I needed to know which class he intended to attend, and I suggested Black River and also ALETA, and I asked him to re-contact me. To make a long story short, he did re-contact me and stated that he was going to start Black River in January and I think there is another letter in there stating that was fine with us. Then I found out that he did not want to attend the full basic. He did not want to attend at all. And is when all this came about. Again the manual states what the manual states and you all know what that is. If you are going to be a full time officer, at some point you have at least to have attended a full basic. This is not a matter of a person who took it a long time ago, and is coming back. This is some one who has never attended the full basic.

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

Commissioner Lester: When was the grandfather deadline? Was that December 31, 1977?

Mr. Marshall: Yes.

Commissioner Lester: So he barely missed that.

Mr. Marshall: No. He missed that by a number of years. Because he was Part Time II then.

Rep. Patterson: That means he has had more training than most people on the police forces, is that right?

Mr. Marshall: We have him as having 697 training hours. And that is not a great deal compared to other law enforcement officers. It is more than some.

Chairman Harrison: Any discussion?

Commissioner Morris: I would like to help him but I think he needs to go to the full basic.

Chairman Harrison: Is that in form of a motion?

Commissioner Morris: Yes sir.

Chairman Harrison: Motion made that Mr. Leach would attend the basic class. Is there a second?

Commissioner Golden: I second.

Chairman Harrison: Motion made and seconded. All in favor, (All commissioners vote aye.) Any opposing? None opposing.

Mr. Bolton: Mr. Chairman, if he intends to do that he is going to need an extension. Is that right Brian?

Mr. Marshall: He already has an extension. He is scheduled to attend Black River in January.

Chairman Harrison: We all sympathize with you, and understand and I think you have got a good police chief there but we set these precedence and we never know what is coming next, and I think the Commission made the right decision.

Mayor Kemp: I understand and thank you for the extension also.

Mr. Bolton: Before you adjourn, the Commission voted to have a decertification hearing on Ricky Lee Beckwith, I believe at the last meeting. Initially he intended to appear at the hearing and fight the decertification. We have a letter from Ms. Rebsamen. Apparently he has written to her and decided not to do so. I just wanted to make the Commission aware that he has decided he doesn't want to have a hearing. And if you want me to I will read the letter. Also I want to make the Commission aware of the fact that a former instructor here at the academy Buster Faulk passed away yesterday and that is why I was almost late today, Mr. Chairman, but he was an instructor here at the academy for a number of years and became widely know around the state for his unique training abilities. I just wanted to make the Commission aware of that. Also I want to make the Commission aware that Commissioner Cook prior to ever taking a seat at this table has been instrumental in our agency's future receipt of driving simulators, which will greatly enhance our training atmosphere here. I wanted to thank her for that and make you all aware of what she has done.

Chairman Harrison: Thank you Director Bolton. Any other discussion or business before we adjourn for lunch? Probably be back at 12:15 for two decertification hearings. We are not going to have the one today for Michele Smith.

Mr. Bolton: Do you have something further on Beckwith, Brian?

Mr. Marshall: I was a little concerned. Normally if someone doesn't request a hearing, you usually have a formal vote on the decertification.

Mr. Bolton: I am not opposed to doing that.

Chairman Harrison: All those in favor of decertifying Mr. Beckwith? (All commissioners vote aye.) Any opposing, none opposing. It is formal. We are adjourned for lunch.

Adjourned at 11:50.