# NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

# **MINUTES**

**DATE:** February 24, 2012

**TIME:** 9:00 A. M.

**LOCATION:** Wake Technical Community College - Public Safety Education Campus

Raleigh, North Carolina

SUBMITTED BY: Robert B. Yow

Interim Director

The Education and Training Committee, the Planning and Standards Committee, the Probable Cause Committee and the Executive Committee met on February 23, 2012 for their regular quarterly meetings. The Probable Cause Committee also met on February 22, 2012.

#### **MEMBERS PRESENT**

# **MEMBERS ABSENT**

Mr. John Glenn Mr. Johnson Britt

Chief Ira Jones Chief Scott Cunningham

Dr. Robert Ruth Chief Bill Hollingsed

Mr. Eddie Caldwell

Captain Lee Farnsworth

Captain Terry Jones

Chief Wrenn Johnson

Mr. Ray Davis

Mr. James Festerman

Chief Tim Ledford

Chief Patricia Bazemore

Ms. Stephanie Freeman

Sergeant Lorrie Hersey

Ms. Tracy McPherson

Mr. Steve Johnson

Mr. Brent Herron

Ms. Robin Pendergraft

Chief Tim Hayworth

Mayor Bobby Kilgore

Colonel Mike Gilchrist

Chief Scott Hunter

Mr. Johnny Hawkins

Mr. Bob Myrick

Mr. Charles Johnson

Ms. Diane Isaacs

Ms. Gwen Norville

Ms. Angela Williams

# **VISITORS**

Chris Hefner Mocksville Police Department

Kim Hefner

Daniel Matthews Mocksville Police Department
Chief Robert Cook Mocksville Police Department

Jeffrey Hudgins N. C. Department of Public Safety - Division of Adult Correction

Susan White

Zachary Dunn

Mark Strickland N. C. Justice Academy Wayne Ayers N. C. Justice Academy

Kenneth Hall Pinehurst Police Department
Chief Earl Phipps Pinehurst Police Department
Paul LeRoy Pinehurst Police Department
Jennifer Harris N. C. State Highway Patrol

Sergeant Keron Testman

Chief Jeff Baker

UNC-Charlotte Police Department

Attorney representing Timothy Phillips

Brad Ellis N. C. Justice Academy

**Bryson Cornett** 

Rick Cornett

Mike McGuinness Attorney representing Bryson Cornett

Darryll DeCotis

Jeff Gray Attorney representing Darryll DeCotis

Floyd Thomas Pinehurst Police Department

Robert Carey Cary Police Department

Lt. Michael J. Davis, Jr.

Christopher Burnette

Chief Jeff McCracken

UNC-Chapel Hill Police Department

UNC-Chapel Hill Police Department

UNC-Chapel Hill Police Department

Jennifer McNeill

Joyce Ruth Jody Hawks

Lt. Robert Grossman Zebulon Police Department

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Dennis Brannan Zebulon Police Department
Scott Finch Zebulon Police Department

Robert Moore UNC-Chapel Hill Police Department

Joseph Howell N. C. Department of Public Safety - Division of Prisons

Norman Young N. C. Department of Justice

Jeff Welty UNC-Chapel Hill School of Government
Jon Gregory Wake Technical Community College

John Aldridge N. C. Department of Justice

Mark Andrew Mauldin

Mr. Michael Byrne Attorney representing Mr. Mauldin

Charles Williams Sydney Gray

#### **STAFF**

Wayne Woodard Richard Squires Lauren Tally Catherine Jordan
Pam Pope Ed Zapolsky Teresa Marrella Mark Dearry

Tim Pressley Brandy Miree Donna Byrd

# I. CALL TO ORDER

Commission Chairman John Glenn brought the meeting to order. He read the Ethics Statement into the minutes. Following the roll call, Chairman Glenn declared that a quorum was present. He extended a warm welcome to the visitors.

Chairman Glenn introduced Jon Gregory and Dr. Tommy Edwards and thanked them for hosting the Commission at the Wake Technical Community College Public Safety Education Campus.

# II. AWARDING OF ADVANCED CERTIFICATES

[Agenda Memorandum No. 01-12]

Chairman Glenn reported that staff had evaluated the applications of all one hundred and nine (109) candidates. There were ninety-one (91) candidates for the Advanced Law Enforcement Certificate and eighteen (18) candidates for the Advanced Criminal Justice Certificate. He noted that each of these applicants had met the requirements to receive the Advanced Certificate and the Advanced Certificate pin.

MOTION was made by Commissioner Robin Pendergraft that the Commission award the Advanced Law Enforcement Certificate or Advanced Criminal Justice Certificate to each named individual. The MOTION was seconded by Commissioner Terry Jones and carried unanimously.

The following individuals were present to personally receive their Advanced Law Enforcement and Advanced Criminal Justice Certificates:

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Christopher W. Burnette UNC-Chapel Hill Public Safety

Presented by Chief Jeff McCracken and

Jennifer McNeill

Robert A. Carey Cary Police Department

Presented by Chief Pat Bazemore

Michael John Davis, Jr.

UNC-Chapel Hill Public Safety

Presented by Chief McCracken

Robert J. Grossman Zebulon Police Department

Presented by Chief Tim Hayworth

Kenneth Oliver Hall Pinehurst Police Department

Presented by Chief Earl Phipps

Christopher Hefner Mocksville Police Department

Presented by Chief Robert Cook and

**Deputy Chief Matthews** 

Jeffrey Hudgins N. C. Public Safety - Division of Adult Correction

Presented by Susan White, Facility Administrator

Paul LeRoy Pinehurst Police Department

Presented by Chief Phipps

Robert Moore UNC-Chapel Hill Public Safety

Presented by Chief McCracken

Joseph Howell N. C. Public Safety - Division of Prisons

Presented by Commissioner Gwen Norville

Anthony Phillips UNC-Charlotte Police Department

Presented by Chief Jeff Baker

Lewis Bowman UNC-Charlotte Police Department

Presented by Chief Baker

# III. MINUTES OF NOVEMBER 18, 2011 MEETING

Chairman Glenn entertained a motion to approve the minutes of the previous Commission meeting.

MOTION was made by Commissioner Jones that the Commission approve the minutes of the November 18, 2011 meeting as mailed. The MOTION was seconded by Commissioner Pendergraft and carried unanimously.

# IV. STANDING COMMITTEE REPORTS

# A. Executive Committee - Chairman Eddie Caldwell

Chairman Caldwell reported that the Executive Committee met on Thursday, February 23, 2012, at the office of the Criminal Justice Standards Division in Raleigh.

Chairman Caldwell stated that each member should have a copy of the 2011 Mandatory In-Service Training status report. He stated that all agencies certified by the Commission submitted their report to the Criminal Justice Standards Division. There were a total of 86 suspensions, 56 military waivers and 91 medical waivers.

Chairman Caldwell stated that Director Wayne Woodard reported that a reduction in the court cost receipts that funds both Criminal Justice Standards Division and the Sheriffs' Standards Division has negatively impacted the operating budgets. The Executive Committee has asked for a status report and a recommended course of action. A report will be forthcoming at a later date to the full Commission.

Chairman Caldwell stated that Director Woodard announced that he has resubmitted his application to retire from the State, to be effective May 1, 2012. Director Woodard has spoken with the Department of Justice Chief of Staff to begin the process of hiring his replacement and it is expected that the process will begin in March.

Chairman Caldwell asked Director Woodard to give an update on the Criminal Justice Standards Division. Director Woodard reported that he was very pleased with the new facility and location. He stated that it was much easier for agencies to drop off paperwork. He stated that the Open House was a success and he appreciated everyone who came to see the new office.

Director Woodard reported the technical changes on page 2 and the top of page 3 of the Probable Cause Policy had been revised. He asked that the Commission approve the revisions to the Probable Cause Policy.

MOTION was made by Commissioner Davis that the Commission accept the revisions to the Probable Cause Policy; seconded by Commissioner Jones. The MOTION carried unanimously.

Mr. Caldwell asked Director Mark Strickland to give an update on the Justice Academy.

Mr. Strickland stated that Chris Anderson has been promoted to the Deputy Director of Operations at the West Campus. Mr. Strickland stated that Bill DuBois has been hired as the In-Service Coordinator for the Justice Academy.

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Mr. Strickland reported that the Justice Academy and the SBI provided training to educate agencies about the Database Act of 2010. There are 15 train-the-trainer workshops scheduled across the state.

Next, Mr. Strickland reported that the Justice Academy and staff of the Criminal Justice Standards Division have been working in the development and delivery of the Concealed Carry Handgun Instructor Update course. This update was designed to provide current CCH Instructors with information pertaining to recent legislative changes affecting the program and use of deadly force training.

Mr. Strickland stated that the 2012 North Carolina Justice Academy Telecommunicator's Conference would be held April 2-5, 2012. The theme is "Stepping Up Our Game." Topics are: Verbal Judo for Telecommunicators, Human Trafficking Awareness, Tactical Dispatch, Crime Trends, Health and Wellness, and Fire/EMS Responsibilities.

Lastly, Mr. Strickland stated that there have been some revisions made to the 2012 In-Service "Legal Update" lesson plan. He gave an updated CD to all Commission members.

Vice-Chairman Caldwell introduced a new Commission member Mr. Jeff Welty with the UNC School of Government. He stated that Mr. Welty is a professor with the school and has been there for a number of years. Chairman Caldwell stated that the Commission was looking forward to Mr. Welty becoming a Commission member.

#### В. **Education and Training Committee - Chairperson Wrenn Johnson**

Chairperson Johnson reported that the Education and Training Committee met on Thursday, February 23, 2012 at the Wake Technical Community College, Public Safety Education Campus, Raleigh, North Carolina.

Chairperson Johnson reported that the Education and Training Committee re-elected Robin Pendergraft as Vice-Chairperson.

Chairperson Johnson reported that Commissioner Terry Jones recommended reaccreditation for Rowan-Cabarrus Community College and Surry Community College for a period of five years. The Committee approved this request.

Chairperson Johnson reported that on behalf of the North Carolina Police Executives Association, Chief Chris Blue requested in-service pilot authority for a four-hour block of instruction: "Leading for a Change," at the March 15, 2012 training session in Statesville, North Carolina. The Committee approved this request.

Chairperson Johnson reported that the Committee approved the proposed 2013 in-service training objectives as presented.

Chairperson Johnson reported that on behalf of the Specialized Physical Fitness Instructor Training Revision Committee, John Combs with the North Carolina Justice Academy requested that the Age and Gender Adjusted Norms for the course with the 60th percentile prequalification standard be applied to the Specialized Physical Fitness Instructor Course.

Mr. Combs further requested that the Nutrition Awareness Lesson Plan be revised to reflect the new Food Guide that was approved by the U.S. Department of Agriculture in 2011. The new guide is called "My Plate," which replaces the Food Pyramid. The Committee approved these requests.

Director Strickland with the North Carolina Justice Academy reported that the N. C. Association of Chiefs of Police Winter Conference was held January 22-25, 2012. The conference attendees completed the four-hour pilot block of instruction on "Resiliency."

Ms. Jennifer Fisher, on behalf of the BLET Revision Committee, reported the following items: Physical Fitness Training - The instructor notes pages has been updated. Field Note taking and Report Writing - The video titled, "Surviving Report Writing," has been removed. Motor Vehicle Law - The content regarding G.S. 20-141.5 speeding to elude arrest was updated in the lesson plan. Controlled Substances - New information has been added to the lesson plan that discusses substance abuse, addiction, and treatment. In addition, several controlled substances have also been added to the lesson plan. Sheriff's Responsibilities: Detention Duties - New information has been added to the lesson plan regarding the new community and intermediate corrections conditions, known as the "Quick Dip" program. Human Trafficking - The "North Carolina Coalition against Human Trafficking" handout has been updated along with the lesson plan content to reflect the new title of the coalition.

Next, Chairperson Johnson stated that Wayne Ayers reported to the Committee that the Academy has delivered six Instructor Legal updates as requested by the Education and Training Committee.

Chairperson Johnson stated that Commissioner Steve Johnson reported that additional language and revisions relating to duty equipment in the In-Service Firearms Training Manual has been reviewed and approved. Commissioner Steve Johnson further reported that additional changes in the manual will address questions relating to lateral transfers, recent BLET graduates, and changes in the language concerning retired versus separated officers as defined in SB 1132. Additional language will be added to the manual which provides guidance to Firearms Instructors who will be signing F-9As for individuals who have completed the classroom portion of firearms training on-line.

Lastly, Chairperson Johnson reported that Committee members discussed and agreed to removing the requirement that students be CPR certified prior to attending any specialized instructor training course. The Committee agreed to request rule-making authority to the full Commission to amend the following rules: 12 NCAC 09B .0227(c)(5); 12 NCAC 09B .0226(c)(3); 12 NCAC 09B .0232(c)(4); and 12 NCAC 09B .0233(c)(4).

MOTION was made by Commissioner Johnson that the Commission approve the proposed amendments to 12 NCAC 09B .0227(c)(5), 12 NCAC 09B .0226(c)(3), 12 NCAC 09B .0232(c)(4) and 12 NCAC 09B .0233(c)(4) and grant rule-making authority to the Planning and Standards Committee; seconded by Commissioner Steve Johnson. The MOTION carried unanimously.

# C. Planning and Standards Committee - Chairperson Stephanie Freeman

Chairperson Stephanie Freeman reported that the Planning and Standards Committee met on Thursday, February 23, 2012 and approved the minutes of the November meeting.

Chairperson Freeman reported that the Planning and Standards Committee re-elected

Commissioner Scott Cunningham as Vice-Chairman.

Chairperson Freeman made a motion to approve the proposed amendments to: 12 NCAC 09B .0106 - This rule outlines the requirements for provision of proof of education by applicants. This rule was amended to clarify what constitutes a passing score on the GED exam; 12 NCAC 09B .0203 - This rule was amended to exempt partial enrollees who hold general law enforcement certification within 12 months prior to the date of enrollment in a BLET course from being required to take a reading comprehension exam; 12 NCAC 09B .0305 and 12 NCAC 09G .0311 -This rule was amended to change the requirement for instructors to recertify by removing the requirement for instructors to teach in an area of specialized instruction when such area was added to an existing instructor certification with less than 12 months left until the end of the instructor's certification period. 12 NCAC 09D .0102, 12 NCAC 09D .0202 & 12 NCAC 09G .0602 -Requirements for eligibility to receive criminal justice and law enforcement professional awards.; 12 NCAC 09E .0102 & 12 NCAC 09E .0105 - The following topics have been removed: Career Survival: Leadership & Mentoring (4 hours); Juvenile Minority Sensitivity Training: Interactions, Communications and Understanding (2 hours); and Domestic Violence: Lesbian, Gay, Bi-Sexual and Transgender (LGBT) Relationships (2 hours). The following topics have been added: Career Survival: Social Networking & Digital Communications (4 hours); Juvenile Minority Sensitivity Training: Skills in Building Rapport (2 hours); Awareness of Issues Surrounding Returning Military Personnel (2 hours). 12 NCAC 09G .0206 - Moral Character: During a previous amendment of this rule, one line of text was inadvertently omitted. The Commission wishes to reinstate the prohibition against hiring convicted felons. 12 NCAC 09G .0309 - This rule amended to require a probationary instructor to teach 12 hours instead of 8 hours during the probationary instruction period. This change is consistent with the requirement for other criminal justice instructors.

MOTION was made by Commissioner Freeman that the Commission adopt the amendments as permanent Rule Amendments; seconded by Commissioner Gwen Norville. The MOTION carried unanimously.

Chairperson Freeman reported that the Committee reviewed and approved the final version of the Form F-5B(LE), Law Enforcement Affidavit of Separation. This is Goal #1, Objective A of the System Plan, which calls for review and possible revision of commission forms to ensure the best quality officers are being hired and retained.

MOTION was made by Commissioner Freeman that the Commission adopt the proposed revision to the Form F-5B(LE) - Report of Separation and direct Criminal Justice Standards staff to proceed with the implementation of this new form; seconded by Commissioner Norville. The MOTION carried unanimously.

Chairperson Freeman reported that the Committee voted to request rule-making authority from the full Commission to proposed amendments to 12 NCAC 09H, the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program.

MOTION was made by Commissioner Freeman that the Commission grant rule-making authority to the Planning and Standards Committee to make the aforementioned revisions to the qualified retired law enforcement officer firearms qualification program pursuant to 12 NCAC 09H .0101, .0102, .103, .0104, and .0105; seconded by Commissioner Steve Johnson. The MOTION carried unanimously.

# D. Probable Cause Committee - Chairman Ray Davis

Chairman Davis reported that the Probable Cause Committee met on Wednesday, February 22<sup>nd</sup> and again on Thursday, February 23<sup>rd</sup>.

He reported that the Committee reviewed a total of twenty-three (23) cases. Probable cause was found in ten (10) cases and no probable cause in 10 cases. Two cases were continued and one was tabled for additional investigation. He related that the Committee found probable cause in two cases in which the Committee offered a lesser sanction of an "Official Written Reprimand."

MOTION was made by Commissioner Davis that the Commission accept a lesser sanction of agreement for Memorandum Number 12/013; seconded by Commission Ira Jones. The MOTION carried unanimously.

MOTION was made by Commissioner Davis that the Commission accept a lesser sanction of agreement for Memorandum Number 12/022; seconded by Commissioner Jones. The MOTION carried unanimously.

Chairman Davis stated that Commissioner Ira Jones was re-elected as Vice-Chairman of the Probable Cause Committee.

Chairman Davis concluded his report by asking the Commission members to review the list of individuals that staff had certified after reviewing their criminal records. He advised that the Probable Cause Committee members reviewed and subsequently approved the issuance of certification to this individual.

# V. OTHER BUSINESS

None

# VI. COMMISSION MEMBER TRAINING Required by N.C.G.S. §93.5

Ms. Lauren Tally and Ms. Catherine Jordan presented Ethics Training for the Commissioners. Ms. Tally reported that this is required pursuant to N.C.G.S. § 93B-5. She noted that new Commission members would need to attend an Ethics Training class within six months of their election, appointment, or employment; and a refresher presentation at least every two years thereafter.

# VII. OLD BUSINESS

# A. Old Business

None

#### B. Legal Counsel Report

Ms. Tally distributed a document entitled "Pending Administrative Cases" for the membership's review:

1. Jay Eduard Krueger

Petition for Judicial Review filed January 6, 2011 (Wake County); Official Record/Response filed February 7, 2011; Addition of Counsel JA/CJ March 25, 2011; In process of scheduling with Attorney Payne.

2. Tommy Keith Lymon

3. Mark Andrew Mauldin

4. Timothy Scott Phillips

5. Bryson Lawrence Cornett

6. Ahmed Joseph Blake

7. Petre Earl Franks

8. Darryl DeCotis

Derrick Wayne Knox
 Vickie Carol Powers

11. Geary Michael Chlebus

12. Gary Richard Sessoms

13. James Sprunt Community College

14. John Benjamin Whitehurst

15. Wagner Lee Baskett

16. Charles Lovelace Williams

17. Dillan Nathanuel Hymes

18. Barbara Renay Whaley

19. Horatio Vernon Cameron, Jr.

20. Robert Kendrick Mewborn

21. Stacey Lanier Green

22. Julian Maurice Sidberry

23. Darryl Howard

Petition for Judicial Review filed April 29, 2010 (Wake County); Response filed May 27, 2010; Sent Calendar Request for week of December 13, 2010 on September 28, 2010; Hearing: December 15, 2010, 10:15 AM; Remanded to OAH; Notice of Appeal/Motion to Stay filed February 9, 2011; Proposed ROA sent to Attorney Gray March 16, 2011; 30 days for Petition to submit obj/amendments: April 15, 2011; Respondent filed Notice of withdrawal with Court of Appeals on May 2, 2011; letter to Office of Administrative Hearing requesting remand sent May 6, 2011; Hearing Continued; Interrogatories sent November 30<sup>th</sup>; 15 days; December 17<sup>th</sup>; Hearing set for March 26th.

To Be Heard at the February 2012 Commission Meeting.

To Be Heard at the February 2012 Commission Meeting.

To Be Heard at the February 2012 Commission Meeting.

To Be Heard at the February 2012 Commission Meeting.

FAD sent December 12<sup>th</sup>; 35 days: January 23<sup>rd</sup>; Petition for Judicial Review filed January 17<sup>th</sup> (Beaufort Co.); R/OR Due February 20<sup>th</sup>; PJR Response/Official Record mailed to be filed February 17<sup>th</sup>.

To Be Heard at the February 2012 Commission Meeting.

Hearing Continued.

Hearing: February 28, 2012, 9:00 am; Raleigh. Interrogatories sent July 11<sup>th</sup>; 15 days: August 1, 2012 Hearing: October 12, 2012, 9:00 am; Fayetteville: Hearing to Resume January 11-12, 2012; Submit Draft PFD to Judge by March 5<sup>th</sup>. Final Decision Order of Dismissal Filed August 30<sup>th</sup>; 35 days; Resent September 29<sup>th</sup>; Resent to new address provided by Sheriff January 30<sup>th</sup>. Hearing Continued.

To Be Heard at the February 2012 Commission Meeting.

Hearing Continued.

To Be Heard at the February 2012 Commission Meeting.

Hearing Continued.

Hearing: February 14, 2012, 9:00 am; Kenansville.

To Be Heard at the May 2012 Commission Meeting.

Draft PFD sent to Judge January 3, 2012.

To Be Heard at the May 2012 Commission Meeting.

To Be Heard at the February 2012 Commission Meeting.

Interrogatories sent February 13<sup>th</sup>; 15 days: Discovery Due: February 20<sup>th</sup> - Hearing: March 12, 2012, 10:00 am; Charlotte.

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|------------------------------|---|---|
| 24. John Jay O'Neal          |   | Interrogatories - Discovery Due: March 5, 2012  |
| 25. Charlesene Yvette Cotton |   | Hearing: March 19, 2012, 9:00 am; New Bern. Interrogatories sent February 10 <sup>th</sup> ; 15 days: Discovery Due: February 13 <sup>th</sup> - Hearing: April 20, 2012, 9:30 am; Raleigh. |
| 26. William James Becker     |   | Interrogatories - Discovery Due March 5, 2012   |
| 27. Andrew Wayne Deaton      |   | Hearing: Week of March 19, 2012; Halifax. PHS Due March 5 <sup>th</sup> ; Interrogatories Discovery Due: May 21 <sup>st</sup> - Hearing: Week of June 4, 2012; Charlotte.                   |
| 28. James Philip Davenport   |   | PHS Due March 5 <sup>th</sup> ; Interrogatories Discovery Due: May 14 <sup>th</sup> - Hearing: May 28, 2012; Raleigh.   |
| 29. Alvin Louis Daniels      |   | PHS Due March 5 <sup>th</sup> ; Interrogatories Discovery Due: May 21 <sup>st</sup> - Hearing: June 4, 2012; Charlotte.   |

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# VIII. DATE OF NEXT MEETING

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Chairman Glenn advised that the next Commission meeting is scheduled for May 24-25, 2012 and the location will be announced at a later date.

# X. MOTION TO ADJOURN

MOTION was made by Commissioner Pendergraft that the Commission adjourn; seconded by Commissioner Freeman. The MOTION carried unanimously.

# C. Final Agency Decisions

Ms. Tally noted that Mr. Norman Young, an Assistant Attorney General, would serve as the Commission's Legal Counsel for the Final Agency Decision.

Chairman Glenn recused himself from all cases. Vice-Chairman Eddie Caldwell presided for the remainder of the Commission meeting.

Vice-Chairman Caldwell stated that Ahmed Joseph Blake and Julian Maurice Sidberry had asked for a continuance. He stated that they would be heard at a later date.

Vice-Chairman Caldwell read the Recusal Statement to the Commission members and reminded everyone that both the Petitioner and the Respondent would be limited to 30 minutes of oral argument.

# 1. Mark Andrew Mauldin

Ms. Lauren Tally presented the case of Mark Andrew Mauldin. Ms. Tally stated that Mr. Mauldin submitted to a drug screen test with the Charlotte-Mecklenburg Police Department and he had a positive drug screen. Ms. Tally stated that Mr. Mauldin had a different attorney representing him during the Probable Cause Committee meeting and his attorney did not request a hearing in an appropriate manner. Ms. Tally stated that Mr. Mauldin had obtained medication from his mother-in-law for a migraine. Ms. Tally stated that Mr. Mauldin has been employed with the Charlotte-Mecklenburg Police Department for 14 years.

Mr. Michael Byrne, attorney representing Mr. Mauldin stated that some procedural matters that were not conducted done properly. When Judge Gray heard the case, he ruled that this was a case of medication sharing. Mr. Byrne stated that there were officers present from Charlotte-Mecklenburg in support of Mr. Mauldin. He stated that Mr. Mauldin took full responsibility for his actions. He stated that Mr. Mauldin is an outstanding officer and he admitted to doing something wrong. He asked that the suspension be reversed and asked the Commission to consider Judge Gray's decision.

MOTION was made by Commissioner Ray Davis that the Commission go into Closed Session; seconded by Commissioner Robin Pendergraft. The MOTION carried unanimously.

MOTION was made by Commissioner Davis that the Commission return to Open Session; seconded by Commissioner Steve Johnson. The MOTION carried Unanimously.

Commissioner Steve Johnson asked Mr. Mauldin if he has conducted any in-service training during his suspension. Mr. Mauldin stated that he contacted the academy and the state to verify if he could continue his in-service training and he was advised that he could. He stated that he is current with all of his in-service training.

MOTION was made by Commissioner Ray Davis that the Commission go into Closed Session; seconded by Commissioner Bob Ruth. The MOTION carried unanimously.

MOTION was made by Commissioner Steve Johnson that the Commission return to Open Session; seconded by Commissioner Charles Johnson. The MOTION carried unanimously.

MOTION was made by Commissioner Robin Pendergraft that the Commission adopt the Proposed Final Agency Decision submitted to us with the following modifications: Page #5 under Conclusions of Law should read as follows: While such medication sharing is contrary to law, Delete "is believed to be a common occurrence and not indicative of general illegal practice on the part of Petitioner, especially given" so it should read: "while such medication sharing is contrary to law, the Commission recognizes the Petitioner's past clean record on these points and the total absence of any other evidence suggesting Petitioner is unfit to serve in a law enforcement capacity. All other evidence (strike) is strongly to the contrary, indicating indicates that the Petitioner is a diligent and dedicated officer whose employer, the Charlotte-Mecklenburg Police Department, desires to return to service. Petitioner's actions throughout the internal investigation and hearing process demonstrate candor. Paragraph #6 strike the word "Accordingly" and capitalize the word The". In the Order, it should read, "Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that Respondent suspend the Petitioner's law enforcement officer certification, (add "based upon Petitioner's conduct in violation of 12 NCAC ) for a period of three years. This suspension shall be suspended for a period of three years on condition that Petitioner not violate any law (other than infractions and minor traffic offenses) of this State or any other state, any federal laws, any ordinances, any rules of this Commission, the Company and Campus Police Program or the North Carolina Sheriffs' Education and Training Standards Commission; seconded by Commissioner Ruth. The MOTION carried unanimously. See Attachment I for the Commission's Final Agency Decision and Attachment II for the roll call vote.

# 4. Bryson Lawrence Cornett

Ms. Tally stated that Mr. Cornett graduated from Campbell University with a degree in Criminal Justice. She stated that in February 2010, Mr. Cornett began serving as a reserve campus police officer for Wake Forest University Police Department. After a background investigation by the department, he was asked why he left the North Carolina Alcohol Law Enforcement Division (ALE). Ms. Tally stated that Mr. Cornett committed a material misrepresentation, committed the felony offense of "Attempted Obstruction of Justice" and demonstrated "Lack of Good Moral Character". She stated that Mr. Cornett was finishing his training with ALE with Agent Barbee. Agent Barbee testified at the hearing that he and Mr. Cornett were conducting surveillance at a Food Mart in Chapel Hill looking for any violation of NC ABC laws. They both observed a possible underage person consuming a beverage inside a vehicle. Agent Barbee testified that Mr. Cornett stopped the vehicle and was given consent to search the vehicle. Mr. Cornett obtained a license which verified the person was under the age of 21. Mr. Cornett issued the person a citation for underage possession of alcohol and seized the beer for evidence. Agent Barbee stated that he had concerns about Mr. Cornett handling the evidence properly. Ms. Tally stated that Mr. Cornett's actions constituted fabricated evidence. Mr. Cornett initially denied any problem until he was confronted with the two actual beer cans. Mr. Cornett admitted the error in judgment.

Mr. Mike McGuinness, attorney representing Mr. Cornett stated that Mr. Cornett made a mistake. He stated that Mr. Cornett was young and inexperienced when this incident happened. Mr. McGuinness stated that the two officers left the beer and that broke the chain of custody. He stated that the F-3 form does not ask if there was some sort of investigation. Mr. McGuinness stated that Mr. Cornett has been forthcoming when asked

about this incident.

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Mr. Cornett stated that throughout his training he has focused on his law enforcement career. He stated that he apologized for his actions. He stated that he did not intend to do anything wrong. He stated that in hindsight, he realized he should have come to his immediate supervisor for advice like he did when filling out his F-3 form for Wake Forest Police Department. He admitted that he left the two cans of beer at the location of the traffic stop. He stated that he replaced the two cans of beer because it was the personal property of the individual and he felt it was his responsibility as the custodian of the property to replace what he had lost in case this individual was proven to be of legal age. He stated that he realized that these two cans of beer could not be used as evidence.

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MOTION was made by Commissioner Steve Johnson that the Commission go into Closed Session; seconded by Commissioner Angela Williams. The MOTION carried unanimously.

MOTION was made by Commissioner Bob Ruth to return to Open Session; seconded by Commissioner Gwen Norville. The MOTION carried unanimously.

MOTION was made by Commissioner Terry Jones that the Commission adopt the Proposed Final Agency Decision based upon the foregoing Findings of Facts and the Conclusions of Law it is hereby ORDERED that Bryson Lawrence Cornett's application for certification as a law enforcement officer be denied for: (1) Based upon the Petitioner's material misrepresentation of information; (2) denied based upon Petitioner's lack of good moral character; (3) denied based upon the Petitioner's commission of felony of attempted obstruction of justice. Each basis for denial set forth above constitutes a separate and distinct basis for denial. In addition, strike the word on page 18, paragraph 13, that is in all caps; seconded by Commissioner Charles Johnson. The MOTION carried unanimously. See Attachment III for the Commission's Final Agency Decision and Attachment IV for the roll call vote.

# 8. Darryll Grey DeCotis

Commissioner Steve Johnson recused himself from this case.

Ms. Catherine Jordan stated that the Probable Cause Committee found probable cause existed to deny the Petitioner's certification based upon the commission of a Class B misdemeanor for "Resist, Delay and Obstruct" and for lack of good moral character. On April 2001, the officer became intoxicated while off-duty and lay down on the side of the road. A law enforcement officer came to investigate and the Petitioner failed to identify himself. The Petitioner ran into the woods and the officer told him to stop, but Mr. DeCotis did not stop. The Petitioner received an oral warning for failing to maintain the high level of moral character and ethical standards expected by the public for law enforcement. In December 2002, the Petitioner engaged in inappropriate dialogue and text messaging with a colleague. The Petitioner did not deny inappropriate language or inappropriate use of the mobile data computer. Ms. Jordan stated that in 2008, the Petitioner intervened in a traffic stop. Mr. DeCotis inquired of the other officers whether they had their recording equipment and cameras turned on. The Petitioner admitted that he had lost his temper. On May 2009, a Wake County Sheriff's Deputy was called to another residence on the street where Mr. DeCotis lived. The investigating deputy asked the Petitioner for identification. Both Mr. DeCotis and his neighbor were heavily intoxicated. The Petitioner lied about being a law enforcement officer. He also had a confrontation with one of the deputies. The Petitioner kept Deputy Moore from discharging his official duty to complete the form for trespassing.

Mr. Jeff Gray, representing Mr. DeCotis stated that there was no evidence, or sufficient evidence, for lack of good moral character of Darryll DeCotis. He stated that it was a marginal situation of commission of defense of "Obstruct and Delay." Mr. Gray stated that Mr. DeCotis has never denied his conduct. The Judge did not find that Mr. DeCotis lacked good moral character. Mr. DeCotis has been very humble and honest throughout the investigation.

Mr. DeCotis stated that his drinking was simply poor behavior. He stated that he wanted to apologize to the Commission.

MOTION was made by Commissioner Pendergraft that the Commission go into Closed Session; seconded by Commissioner Lorie Hersey. The MOTION carried unanimously.

MOTION was made by Commissioner Charles Johnson that the Commission return to Open Session; seconded by Commissioner Williams. The MOTION carried unanimously.

MOTION was made by Commissioner Pendergraft that the Commission adopt the Proposed Final Agency Decision with the following modifications: on page 19, paragraph 94 to correct the word "accrued" to "crude", on page 21 to strike Conclusions of Law #2, 3, 4,5, and 6. The Conclusions of Law #7 will be #2, #8 will become #3 and will read as follows: "There is insufficient evidence to establish that the Petitioner did commit the Class B misdemeanor offense of resisting, obstructing, and delaying officers in violation of N.C.G.S. § 14-233. Strike the wording "but he did so under the influence of alcohol." The Order should read: "Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that no action be taken against the Petitioner's law enforcement certification; seconded by Commissioner Charles Johnson. The MOTION carried unanimously. See Attachment V for the Commission's Final Agency Decision and Attachment VI for the roll call vote.

# 2. Timothy Scott Phillips

Commissioner Mike Gilchrist recused himself from this case.

Ms. Jordan presented the case of Timothy Phillips in which Mr. Phillips was appointed as a law enforcement officer with the Charlotte-Mecklenburg Police Department. On July 6, 2008, the Petitioner and two other officers with Charlotte-Mecklenburg Police Department met at an establishment called Champions. The officers began talking with Ms. Tracy Gagnon, a patron of the establishment and told her that they were construction workers. They left the establishment and went to Grand Central. At that point, the Petitioner had consumed six beers and two shots of liquor. Ms. Gagnon was also at the Grand Central establishment. Mr. Richter and the Petitioner began talking to an individual named Mr. Flowers. The discussion became heated and both Flowers and Richter became louder. The Petitioner placed himself between Flowers and Richter. Mr. Flowers and the Petitioner began pushing their chests up against each other. Someone grabbed Mr. Richter's shoulder and he (Mr. Richter) turned around and saw Mr. Phillips strike Mr. Flowers two times in the face with his fist. The bouncers came over and told the Petitioner and Richter that they needed to leave. Both the Petitioner and Mr. Richter left the Grand Central. The Petitioner called Officer Hildebrand on his cell phone to pick him up outside the Grand Central. Officer Buehler and Sergeant Pellicon arrived at Grand Central in response to the 911 call and talked with the Petitioner. Mr. Phillips told Sergeant Pellicon that Mr. Flowers

was bothering a female and he went to intercede on the female's behalf. Mr. Phillips stated that when he identified himself as a police officer, Flowers pushed him and he struck Mr. Flowers. Ms. Jordan stated that Mr. Flowers received medical treatment.

Mr. Anthony Scheer, attorney representing Mr. Phillips, stated that the Administrative Law Judge did not find that Mr. Flowers had threaten Mr. Phillips. Mr. Phillips testified that both Mr. Flowers and he were chest to chest. Mr. Scheer stated that the testimony before Judge Brooks was that Mr. Flowers refused to speak to the police about anything that had happened at the bar. It was approximately 45 minutes before Mr. Flowers would talk to the officers. Mr. Scheer would not seek medical attention until he was convinced and told by a supervisor that the person he had an altercation with was a police officer. He stated that Mr. Flowers insisted that he would go forward with charges only if Mr. Phillips was a police officer. Mr. Scheer asked the Commission to consider suspending this sanction in its entirety and reinstating Mr. Phillips' certification.

MOTION was made by Commissioner Norville that the Commission go into Closed Session; seconded by Commissioner Charles Johnson. The MOTION carried unanimously.

MOTION was made by Commissioner Tim Hayworth that the Commission return to Open Session; seconded by Commissioner Ted Ledford. The MOTION carried unanimously.

MOTION was made by Commissioner Hayworth that the Commission adopt the Proposed Final Agency as submitted by legal counsel with appropriate amendments to reflect that the Petitioner committed a "simple assault" not involving serious injury and no action be taken against his certification; seconded by Commissioner Diane Isaacs. The MOTION carried unanimously. See Attachment VII for the Commission's Final Agency Decision and Attachment VIII for the roll call vote.

#### **Charles Lovelace Williams** 6.

Ms. Jordan stated that the Probable Cause Committee found that probable cause existed to deny Mr. Williams' application for certification based on lack of good moral character. On August 2008, Mr. Williams was dispatched and responded to a call from a pawn shop. Mr. Anthony Owens, the Assistant Manager informed the Petitioner that he believed that four suspects inside the business were attempting to pawn stolen property. Mr. Owens testified that the four suspects were suspicious to him because they were attempting to pawn, among other items, two electric guitars. Ms. Jordan stated that the Petitioner did not turn in the DVD with the images of the suspects in the lobby. Also, the Petitioner did not complete any field interview (FI) card on the four suspects. The Petitioner gave false information to his supervisor about whether he was at the pawn shop when the suspects were there. Also, whether he had the DVD or whether someone else had picked up the DVD as evidence when the suspects were in the pawn shop.

Chief Sydney Gray, III, of Sampson County stated that he has known Mr. Williams since November 2011. He stated that Mr. Williams has a good professional relationship with coworkers. He stated that Mr. Williams has outstanding moral character.

Closed Session; seconded by Commissioner Ledford. The MOTION carried unanimously.

MOTION was made by Commissioner Steve Johnson that the Commission return to Open Session; seconded by Commissioner Bob Myrick. The MOTION carried unanimously.

MOTION was made by Commissioner Steve Johnson that the Commission adopt the Proposed Final Agency Decision; seconded by Commissioner Norville. The MOTION carried unanimously. See Attachment IX for the Commission's Final Agency Decision and Attachment X for the roll call vote.

# 7. John Benjamin Whitehurst

Ms. Tally presented the case of John Benjamin Whitehurst. The Probable Cause Committee found probable cause that Mr. Whitehurst knowingly made a material misrepresentation of information by not listing all of his criminal charges. On June 8, 1998, the Petitioner submitted an application with Kitty Hawk Police Department seeking employment. On August 18, 1998, the Kitty Hawk Police Department submitted a request for certification for the Petitioner but later withdrew the application. Ms. Tally stated that Mr. Whitehurst's application with both Kitty Hawk Police Department and Kill Devil Hill Police Department had discrepancies on Form F-5A, Form F-3 and Form F-8. She stated that Mr. Whitehurst denied use of marijuana. Ms. Tally asked the Commission to adopt the Proposed Final Agency Decision.

MOTION was made by Commissioner Pendergraft that the Commission adopt the Proposed Final Agency Decision; seconded by Commissioner Stephanie Freeman. The MOTION carried unanimously. See Attachment XI for the Commission's Final Agency Decision and Attachment XII for the roll call vote.