

MINUTES
OF
THE NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING STANDARDS COMMISSION

DATE: March 14, 2019

TIME: 2:00 P.M.

SUBMITTED BY: Diane Konopka, Director Sheriffs' Standards Division

I. CALL TO ORDER

Sheriff Dwayne Goodwin

The North Carolina Sheriffs' Education and Training Standards Commission's Final Agency Decision meeting was called to order by Sheriff Alan Cloninger on Thursday, June 13th at 2:00 P.M. The Final Agency Decision meeting was held at the Wake Technical Community College Public Safety Education Center, 321 Chapanoke Rd., Raleigh, NC.

Chairman Cloninger requested a roll call of Commission members. Judy Marchetti recorded the following:

MEMBERS PRESENT

MEMBERS ABSENT

Sheriff Doug Doughtie
Sheriff Ricky Oliver
Sheriff Steve Bizzell
Sheriff Jack Smith
Chief Deputy Kim Johnson (proxy for Sheriff Cloninger)
Sheriff Ed McMahan
Sheriff Ingram
Sheriff Jones
Sheriff Mahoney
Major Briscoe (proxy for Sheriff Norman)
Sheriff Terry Johnson
Sheriff Alan Jones
Sheriff Landric Reid
Mr. Jamie Markham
Sheriff Dwayne Goodwin

Ms. Tracy McPherson
Mr. Marc Nichols

STAFF

Marie Evitt - Legal Counsel - NC Department of Justice
Diane Konopka - Director - Sheriffs' Standards Division
Judy Marchetti - Admin. Assistant – Sheriffs’ Standards Division
Chris Brooks - NC Dept. of Justice

Chairman Cloninger welcomed everyone to the meeting and thanked visitors for taking time from their schedule to attend.

In the first order of business, Legal Counsel Chris Brooks read the Ethics Reminder which states:

All members have a duty to avoid conflicts of interest and appearances of conflict. Commission members have an affirmative duty to fully disclose any conflict of interest or potential conflict of interest between the member’s service on the Commission and his or her private interests. One of the most basic rules is that members cannot knowingly use their position on the Commission in a manner that will result in a financial benefit to the person, a member of the person’s family, or a business with which he or she is associated. [N.C.G.S. 138A-31]. Commission members are also prohibited from accepting gifts from persons doing or seeking to do business with the Commission, persons engaging in activities that are regulated or controlled by the Commission, or persons having a financial interest that may be substantially affected by the member’s official duties.

Legal Counsel Chris Brooks then asked whether any member had a known conflict or appearance of conflict with respect to any matters coming before the Commission at this time.

New Hanover County Sheriff Ed McMahon recused himself from the Eric Vanderhaar Final Agency Decision.

Cleveland County Major Durwin Briscoe recused himself from the Robert O. Laney, Jr. and Amy McCraw Final Agency Decisions.

Legal Counsel Chris Brooks then asked whether any other member had a known conflict or appearance of conflict with respect to any matters coming before the Commission at this time. Negative Response.

Vice Chairman Goodwin welcomed the visitors and asked that they stand up and introduce themselves.

VISITORS

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|------------------|-------------------------------------|
| Jonathan Price | Wake County Sheriff's Office |
| Beth Desmond | SBI/Legal/CIIS |
| Joy Strickland | SBI/Legal/CIIS |
| Richard Squires | Deputy Director CJ Standards |
| Robert Johnson | New Hanover County Sheriff's Office |
| Eric Vanderhaar | New Hanover County Sheriff's Office |
| Paula Hands | New Hanover County Sheriff's Office |
| Stanley Silas | New Hanover County Sheriff's Office |
| Bryon Bloodworth | Wake Forest Police Department |
| Amy McCraw | Cleveland County Sheriff's Office |
| Robert Laney | Cleveland County Sheriff's Office |
| Michael Mauney | Cleveland County Sheriff's Office |
| Rob Vaughan | Alleghany County Sheriff's Office |
| Bob Crawford | Attorney for Rob Vaughan |
| Derrick Lee | Bertie-Martin Jail |
| Adam Ambrose | Bertie-Martin Jail |
| Monique D. Clark | DOJ |
| Alfred P. Worth | Warren County Detention Center |
| Consuelo Carver | Currituck County Detention Center |
| Angela Hibbard | Burke County 911 |
| Emily Bell | Burke County Sheriff's Office |
| Scott Helton | Currituck County 911 |
| Joshua Bunton | Alexander County 911 |
| Greg Foster | Alexander County 911 |
| Brice Marshall | Pitt County Sheriff's Office |
| Jo Whitman | Sheriffs' Standards |
| Laura Blalock | Sheriffs' Standards |

II. ADMINISTRATION OF OATH OF OFFICE

Notary, Judy Marchetti, administered the oath of office to:

Commission District #3
Commission District #6

Sheriff Doug Doughtie
Sheriff Terry Johnson

Presentation of Rap Back Program

Deputy General Counsel for the SBI Joy Strickland addressed the Sheriffs' Commission Members to provide information about the Rap Back Program. The Rap Back Program was created by the FBI as a tool for agencies that issue licenses, applications, or for Commission certification through Criminal Justice or Sheriffs' Standards. This program will allow the SBI to retain fingerprints so if a person is arrested and fingerprinted in state or out of state an alert will be received. Even though the Commissions have a rule that officers must report any charges, this will provide an additional check and balance.

This program is not only for law enforcement. Other agencies in other states are using it as well. An example would be for child care workers. Ms. Strickland stated that she met last week with Director Konopka, Sheriffs' Standards; Director Combs, CJ Standards; and Deputy Director Richard Squires to discuss what would be necessary if the Commissions would choose to move forward and utilize this program.

Ms. Strickland stated that from the FBI perspective, we would need legislation passed to utilize the Rap Back Program. Legislation would allow the SBI to retain the fingerprints and run them against the state and the national criminal history system. For the Commissions, it may also require an Administrative Rule change.

Ms. Strickland has reached out to the other states that have implemented this program and they are reviewing the legislation those states have in place. Ms. Strickland has shared this information with Legal Counsel Marie Evitt. Ms. Strickland did find that one of the states that has implemented this program did have some "hiccups" and she wants to make sure she has gathered everything needed to implement this program without problems if it is the Commissions' wish to move forward with implementation.

Ms. Strickland stated that at this point on the SBI side, if the Commissions would want to move forward with this implementation, they would be able to pilot this program at no cost to the Commissions, no expense to the agencies, and with the resources currently in place.

Ms. Strickland stated that the SBI and their Legislative Liaison have agreed that Legal Counsel Marie Evitt and Ms. Strickland could draft language and move forward in getting a Sponsor for the Legislation if that is the wish of the Commissions.

Ms. Strickland asked if there were any questions. Negative response.

III. FINAL AGENCY DECISION

***Robert Vaughan**

Marie Evitt

Mr. Robert Vaughan is an applicant for Detention Officer Certification through the Alleghany County Sheriff's Office. The issue before you to consider for Mr. Robert Vaughan is if there was a Combination (commission/conviction) of four (4) or more Class A or B Misdemeanor offenses. Ms. Evitt summarized the Proposal for Decision for Mr. Robert Vaughan as submitted by the Administrative Law Judge [**Attachment #1**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #2**].

The Administrative Law Judge's recommendation in this case, as well as Legal Counsels recommendation, is that Petitioner's justice officer certification be denied; however, that period of denial be suspended for a period of one year and the certification be granted on the condition that Petitioner not violate any law (other than infractions) of this state or any other state, any federal laws, or any rules of this Commission or the North Carolina Criminal Justice Education and Training Standards Commission.

Attorney Crawford of Alleghany County addressed the Sheriffs' Commission Members on Robert Vaughan's behalf. Mr. Crawford stated that Mr. Vaughan has had a lifelong interest in law enforcement and is pursuing that interest with flying colors. At the Administrative Hearing the Administrative Law Judge was presented with many letters of recommendation demonstrating Mr. Vaughan's good character.

Attorney Crawford stated that Mr. Vaughan was never charged with the hit and run or damaging a fence. Attorney Crawford asked that the Commission Members adopt Legal Counsel's proposed Final Agency Decision and grant Mr. Vaughan his law enforcement certification with a suspension of one (1) year.

Mr. Robert Vaughan addressed the Sheriffs' Commission Members and stated that he agrees with what his attorney as stated. Mr. Vaughan stated that he completed BLET training in May 2018.

Vice Chairman Goodwin asked the Commission if there were any questions. Negative response.

MOTION was made by Sheriff Ed McMahon to enter into a closed session; seconded by Major Briscoe. **MOTION CARRIED.**

A **MOTION** was made by Major Briscoe to enter into open session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ed McMahon in the matter of Mr. Robert Vaughan, to adopt Legal Counsel's Proposed Final Agency Decision and Deny Petitioner's justice officer certification, however, that period of denial be suspended for a period of one (1) year and the certification be granted on the condition that Petitioner not violate any law (other than infractions) of this state or any other state, any federal laws, or any rules of this Commission or the North Carolina Criminal Justice Education and Training Standards Commission; seconded by Sheriff Landric Reid. [**Attachment #3 for Roll Call Vote**] [**Attachment #4 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Eric Vanderhaar**

Sheriff Ed McMahon recused himself from the Eric Vanderhaar case and left the room.

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Eric Vanderhaar is a Detention Officer with the New Hanover Sheriff's Office on a probationary basis. The issue before the Sheriffs' Commission is whether Mr. Vanderhaar committed a felony offense of Possession of Stolen Goods in 1995. Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #5**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #6**].

The Administrative Law Judge's recommendation was to grant Petitioner his certification. Legal Counsel agrees to grant Petitioner his certification.

Mr. Vanderhaar addressed the Sheriffs' Commission Members and stated that the reason he listed the charge on his F-3 was because it was on his criminal record. Mr. Vanderhaar wasn't aware the charges were filed against him until November 8th or 9th when the charges were dismissed. Mr. Vanderhaar stated that he did go and visit Mr. Bickford when he found out about the charges that had been placed on him. Mr. Bickford was 85 years old at the time and said it doesn't matter if you took the scaffolding or not because he couldn't prove it.

Mr. Vanderhaar had left Mr. Bickford's company and started his own. This incident happened about a year later. Mr. Vanderhaar once again stated that he was unaware that such an incident had taken place. Mr. Vanderhaar stated that he was never questioned by a detective, arrested, or served with any paperwork.

Vice Chairman Goodwin asked the Commission if there were any questions.

Sheriff Terry Johnson asked Mr. Vanderhaar if he did it. Mr. Vanderhaar replied "No sir".

Captain Johnson with New Hanover Sheriff's Office spoke on behalf of Mr. Vanderhaar and stated that there was uncertainty when they began their investigation and looked at the incident as a whole. Captain Johnson spoke with the Sheriff at the time and informed him that they knew they would have to go to Probable Cause.

Captain Johnson stated that Mr. Vanderhaar is an outstanding employee and hasn't missed a day of work. Mr. Vanderhaar works overtime and does everything he can do. The New Hanover County Sheriff's Office wants to send him to FTO school but they have waited to get through the Final Agency Decision first. Mr. Vanderhaar works countless hours of overtime. Mr. Vanderhaar is somebody they really need and want to keep.

Vice Chairman Goodwin asked the Commission if there were any questions. Negative response.

A **MOTION** was made by Sheriff Landric Reid to enter into a closed session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Landric Reid to enter into open session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Chief Deputy Kim Johnson to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Eric Vanderhaar and grant Petitioner's justice officer certification; seconded by Sheriff Jack Smith. Sheriff Ed McMahon recused himself [**Attachment #7 for Roll Call Vote**] [**Attachment #8 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Emily Bell Greer**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Ms. Emily Bell Greer is an applicant for justice officer certification with Burke County Sheriff's Office as a telecommunicator supervisor. Ms. Greer was previously employed by the Caldwell County Sheriff's Office from March 1999 to February 2006. Ms. Greer left the Caldwell County Sheriff's Office to accept a promotion and better job opportunity with the Hickory Police Department and worked there from August 2007 to December 2015.

The issue for the Sheriffs' Commission to consider is whether Ms. Greer made a material misrepresentation on her F-3 when applying with Burke County Sheriff's Office. Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [Attachment #9], and the Proposal for Decision as submitted by Legal Counsel [Attachment #10]. Legal Counsel Marie Evitt stated that there are only technical changes between the Administrative Law Judge's proposal and Legal Counsel's proposed Final Agency Decision. Both the Administrative Law Judge's recommendation and Legal Counsel's recommendation is that Ms. Emily Bell Greer did not make a material misrepresentation and to grant her justice officer certification.

Ms. Emily Greer addressed the Sheriffs' Commission Members and stated that she never used marijuana but that she was at a party where people did use it. When Ms. Greer found out that she was going to take a polygraph test she didn't know if her being at the party would count as use of drugs. Ms. Greer had a discussion with them about how to answer and they felt she should answer no but she answered yes thinking she was being completely honest because she was at the party and exposed even though she did not use it. Ms. Greer stated that she was just trying to be honest.

Ms. Angela Hibbard, Burke County 911 Operations Manager spoke on Ms. Greer's behalf and to provide moral support. Ms. Hibbard stated that Ms. Greer is an outstanding employee and has worked day shift to night shift rotations and does anything that is asked of her. Ms. Hibbard stated that Ms. Greer trained her when she worked at Caldwell County. Ms. Hibbard stated that she has known Emily for a very long time and can speak to her character as being a very honest individual.

Vice Chairman Goodwin asked the Commission if there were any questions or comments.

Sheriff Johnson asked Ms. Hibbard if their agency performs random drug testing. Ms. Hibbard answered "yes" and that Ms. Greer passed her random drug test last month.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Major Briscoe to enter into a closed session; seconded by Sheriff Ed McMahon. **MOTION CARRIED.**

A **MOTION** was made by Major Briscoe to enter into open session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ed McMahon to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Ms. Emily Bell Greer and grant Petitioner's Justice Officer Certification; seconded by Sheriff Terry Johnson. [**Attachment #11 for Roll Call Vote**] [**Attachment #12 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Joshua M. Bunton**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Bunton is currently certified as a telecommunicator through Alexander County Sheriff's Office and has been since May 31, 2017. The issue for the Sheriffs' Commission to consider is whether Mr. Bunton failed to notify of a Class B Misdemeanor offense. He was previously certified with Yadkin County Sheriff's Office beginning July 19, 2010. Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #13**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #14**].

The Administrative Law Judge's recommendation and Legal Counsel's recommendation in this case is to deny certification for a period of five (5) years, and that denial be suspended based on the extenuating circumstances. Legal Counsel Marie Evitt asked that the Commission Members adopt Legal Counsel's proposed Final Agency Decision to allow for the language needed with regard to Commission rules.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

Mr. Bunton addressed the Sheriffs' Commission Members and stated that he felt everything was self-explanatory except for one date that was incorrect. Mr. Bunton stated that he was made inactive in 2014. He was charged in April or May of 2015. Mr. Bunton stated that he hopes to be able to do the (denial) suspension.

Mr. Greg Foster, Alexander County 911 Director, spoke on behalf of Mr. Bunton and stated that Mr. Bunton has worked for him approximately two (2) years without incident. Mr. Bunton has been an honest and reliable employee.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Ed McMahon to enter into a closed session; seconded by Sheriff Terry Johnson. **MOTION CARRIED.**

A **MOTION** was made by Major Briscoe to enter into open session; seconded by Sheriff Terry Johnson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ed McMahon to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Joshua Bunton and deny Petitioner's certification for a period of not less than five (5) years, and that denial is suspended for based on the extenuating circumstances on the conditions that Petitioner shall not violate any federal laws, any laws of the State of North Carolina (other than minor traffic infractions), any rules of the North Carolina Sheriffs' Education and Training Standards Commission, or any rules of the North Carolina Criminal Justice Education and Training Standards Commission; seconded by Sheriff Landric Reid. [**Attachment #15 for Roll Call Vote**] [**Attachment #16 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Derrick Demond Lee**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Lee requested an Administrative Hearing but he did not follow the Order for Prehearing Statement. The Administrative Law Judge recommended to dismiss this case with prejudice. The proposed Final Agency decision from Legal Counsel is to adopt the Administrative Law Judge's proposal to dismiss with prejudice. Legal Counsel Marie Evitt stated that the Probable Cause finding stands against Mr. Lee.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

Mr. Lee addressed the Sheriffs' Commission and stated that he did request an Administrative Hearing within the 30 day timeframe. During the month of October Mr. Lee was transitioning from Hertford County to Bertie-Martin Jail. Mr. Lee stated that he didn't proceed with the paperwork. The Administrative Law Judge did provide Mr. Lee two (2) opportunities to file the Prehearing Statement.

Vice Chairman Goodwin asked Mr. Lee why he didn't file his Prehearing Statement. Mr. Lee stated that he didn't see anything on it and thought his agency would keep him informed on what was going on with it.

Legal Counsel Marie Evitt stated that the two options the Sheriffs' Commission Members have is to either dismiss the case with prejudice or to not dismiss the case and have Legal Counsel request another Administrative Hearing for this case.

Vice Chairman Goodwin asked Mr. Lee if he understood that if they request another Administrative Hearing it is his responsibility to file the Prehearing Statement. Mr. Lee stated that he understood.

Lt. Ambrose addressed the Sheriffs' Commission Members on the behalf of Mr. Lee. Sheriff Goodwin asked Lt. Ambrose what he can tell the Commission about Mr. Lee's situation in not filing his Prehearing Statement. Lt. Ambrose stated that he cannot speak to that situation because he was not aware of it. Lt. Ambrose did state that he is there to speak on Mr. Lee's behalf as a Detention Officer employee.

Sheriff Johnson asked Lt. Ambrose what type of an employee Mr. Lee is. Lt. Ambrose answered that Mr. Lee is an excellent employee, very dependable and an honest man with integrity. Lt. Ambrose stated that Mr. Lee handles the duties of the jail at the highest level. Lt. Ambrose considers Mr. Lee a rare employee in that he comes into work and goes about his business.

Sheriff Johnson asked Lt. Ambrose if he felt Mr. Lee just didn't know what to do when he received the notice of Administrative Hearing and Order for Prehearing Statement. Lt. Ambrose

answered “yes sir”. Lt. Ambrose stated that he will be happy to offer his assistance to Mr. Lee in any way to help him through this process.

Sheriff Johnson asked Mr. Lee if he knew what to do when he received the letter for an Administrative Hearing with the Order for Prehearing Statement. Mr. Lee stated that he didn’t understand it.

Sheriff Johnson asked Lt. Ambrose if he was aware that there was a problem prior to hiring Mr. Lee. Lt. Ambrose answered that he was not aware.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Landric Reid to enter into a closed session; seconded by Chief Deputy Kim Johnson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson to enter into open session; seconded by Sheriff Ed McMahon. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Jack Smith to not adopt a dismissal of Petitioner’s case. It is ordered that this contested case be remanded back to the office of Administrative Hearings for hearing, and that Petitioner shall comply with the Orders of the Office of Administrative Hearings or this case will be subject to dismissal; seconded by Major Briscoe. [**Attachment #19 for Roll Call Vote**] [**Attachment #20 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Consuelo Carver**

Ms. Consuelo Carver is an applicant for justice officer certification through Currituck County Sheriff's Office. Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that there are a couple of issues in this case. The first being the commission of the burglary felony offenses in Georgia. The second issue is the commission or conviction of a felony offense of Fleeing or Attempting to Elude Police Officers in the state of Georgia. The last issue to consider is if there is a Combination (commission or conviction of four (4) or more Class A or B Misdemeanors.

Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [Attachment #21], and the Proposal for Decision as submitted by Legal Counsel [Attachment #22]. Legal Counsel Marie Evitt informed the Sheriffs' Commission Members that the Administrative Law Judge's Proposed Final Agency Decision is not permissible under Commission Rules.

Ms. Carver addressed the Sheriffs' Commission Members and stated that everything Legal Counsel said is true, but the person that she is talking about no longer exists. Ms. Carver stated that this job means more to her than anything and she takes pride in what she does. If the Sheriff and Captain of Currituck County could have come, they would be here today. Ms. Carver stated that they stand beside her. Ms. Carver asked the Sheriffs' Commission Members to please have mercy on her and allow her to keep her job. Ms. Carver feels that it is more of a career than a job to her.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Landric Reid to enter into a closed session; seconded by Sheriff Terry Johnson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Jack Smith to enter into open session; seconded by Major Briscoe. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Ms. Consuelo Carver and permanently Deny Petitioner's justice officer certification; seconded by Major Briscoe. [**Attachment #23 for Roll Call Vote**] [**Attachment #24 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Robert O. Laney**

Major Briscoe of Cleveland County recused himself from Mr. Robert O. Laney's case and left the room.

Mr. Robert O. Laney is currently employed as a deputy with the Polk County Sheriff's Office. At the time of this offense, Petitioner was a deputy at the Rutherford County Sheriff's Office. Upon completion of an internal investigation into this event, Mr. Laney was terminated from his employment with the Rutherford County Sheriff's Office. Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that the issue for this case is whether or not Mr. Laney lacks the good moral character required of a justice officer.

Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #25**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #26**]. Both the Administrative Law Judge's recommendation and Legal Counsel is that Petitioner's justice officer certification be indefinitely Revoked because he lacks the good moral character required of a justice officer.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

Mr. Laney addressed the Sheriffs' Commission Members and stated that he has been working for Polk County Sheriff's Office for two (2) years. Mr. Laney stated that there was a lot of he said/she said in this issue. Mr. Laney stated that he took a polygraph test and it was inconclusive. It was after his polygraph test that he sent his father a text message. His father responded for him not to worry and that everything was taken care of. This is when he felt like his father may have been the person that did it. The next day Mr. Laney was working when the Rutherford County Sheriff dismissed him.

The Polk County Sheriff was aware of what happened and Mr. Laney was working part-time when charges for the incident were brought against him and he was arrested. Those charges were eventually dismissed. Once the charges were dismissed, he was able to go back on patrol with Polk County. Mr. Laney stated that about 10 months later he applied with Cleveland County and that is when he received notification for probable cause. Mr. Laney stated that this is his life and has about 10 years invested in it. Mr. Laney stated that he doesn't know what else to say. Mr. Laney stated that he is ready to get this over with.

Lt. Michael Mauney of the Cleveland County Sheriffs' Office addressed the Sheriffs' Commission Members and stated that Mr. Laney has been employed with the Cleveland County Sheriffs' Office for almost two (2) years. Lt. Mauney has been there approximately six (6) months and stated that Mr. Laney has been an incredible employee. Mr. Laney comes to work every day on time. Lt. Mauney stated that he couldn't ask for a better employee.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Landric Reid to enter into a closed session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Jack Smith to enter into open session; seconded by Sheriff Terry Johnson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ed McMahon to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Robert O. Laney, Jr. and Revoke Petitioner's certification indefinitely because he lacks the good moral character required of a justice officer; seconded by Sheriff Terry Johnson. **[Attachment #27 for Roll Call Vote] [Attachment #28 for Final Agency Decision] MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Scott Helton, Sr.**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Scott Helton is currently an applicant for telecommunicator certification through the Currituck Communications and has been employed there since August 24, 2017. The issue before the Sheriffs' Commission is Petitioner's failure to notify North Carolina Sheriffs' Education and Training Standards Division within five (5) working days when he was served with "Simple Worthless Check".

Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #25**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #26**]. There are only technical changes between the Administrative Law Judge's proposal and Legal Counsel's proposal. Legal Counsel Marie Evitt's recommendation is that the Petitioner's certification be Denied for a period of not less than five (5) years, but that denial should be Suspended for a period of six (6) months based on the extenuating circumstances and Petitioner's certification should be granted on the condition that Petitioner not violate any federal laws, any laws of the State of North Carolina (other than minor traffic infractions), any rules of the North Carolina Sheriffs' Education and Training Standards Commission, or any rules of the North Carolina Criminal Justice Education and Training Standards Commission.

Mr. Helton addressed the Sheriffs' Commission Members and thanked them for their time. Mr. Helton stated that he had a very sick dog and had to write a post-dated check to cover the vet bill. Mr. Helton was aware that he didn't have the funds to cover the check at the time and that is why he post-dated it. Mr. Helton had retired in 2016 after his wife had a second surgery so he could be home to help her. Mr. Helton stated that once he wanted to return to work he asked Currituck County 911 if he could return with them. Currituck County 911 welcomed him back with open arms. Mr. Helton stated that he had exceeded the 12 month timeframe and had to do the paperwork. Mr. Helton stated that he did not recall his responsibility to notify the Sheriffs' Standards Division and was not trying to hide anything. Mr. Helton has the support of both the current and the preceding Sheriff and now understands the reporting requirements. Mr. Helton apologized for the situation and stated that he is humbly sorry.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Terry Johnson to enter into a closed session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Major Briscoe to enter into open session; seconded by Sheriff Ed McMahon. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Scott Helton, Sr. and Deny Petitioner's certification for a period of not less than five (5) years, but that Denial should be Suspended for a period of six (6) months based on the extenuating circumstances and Petitioner's certification should be granted on the conditions that Petitioner not violate any federal laws, any laws of the State of North Carolina (other than minor traffic infractions), any rules of the North Carolina Sheriffs' Education and Training Standards Commission, or any rules of the North Carolina Criminal Justice Education and Training Standards Commission; seconded by Sheriff Jack Smith. [**Attachment #31 for Roll Call Vote**] [**Attachment #32 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Brice K. Marshall**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Marshall is an applicant for detention officer certification and is currently employed with the Pitt County Sheriff's Office as a detention officer. Mr. Marshall has served in that capacity since October 09, 2017. The issue before the Sheriffs' Commission today is whether or not he made a material misrepresentation on his application. Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #33**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #34**]. The recommendation of both the Administrative Law Judge and Legal Counsel, with minor technical changes, is to Deny certification for a period not less than five (5) years, however, based on the extenuating circumstances, the denial to be Suspended and Petitioner placed on probation for a period of one (1) year on the conditions that Petitioner not violate any federal laws, any laws of the State of North Carolina (other than minor traffic infractions), any rules of the North Carolina Sheriffs' Education and Training Standards Commission, or any rules of the North Carolina Criminal Justice Education and Training Standards Commission.

Mr. Marshall addressed the Sheriffs' Commission Members and stated that when he had applied with the NC Division of Adult Correction he did hesitate upon the question "have you ever used any illegal drugs?" A women that was standing at the counter told him not to worry about

anything over five (5) years. Mr. Marshall stated that he took that advice but realizes that he should not have.

Mr. Marshall stated that he takes pride in his work and respects every aspect involved with law enforcement. Mr. Marshall stated that his integrity is rock solid and that he has never gotten into trouble.

Vice Chairman Goodwin asked the Commission if there were any questions or comments.

Sheriff Johnson asked Mr. Marshall if he was drug tested. Mr. Marshall answered that he was drug tested when he was hired and that the agency does do random drug testing. Mr. Marshall also stated that his drug test results were good.

Vice Chairman Goodwin asked the Commission if there were any other questions or comments. Negative response.

A **MOTION** was made by Sheriff Ed McMahon to enter into a closed session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson to enter into open session; seconded by Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Major Briscoe to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Brice K. Marshall to Deny Petitioner's justice officer certification for a period of not less than five years; however, based on the extenuating circumstances, the denial is Suspended and Petitioner is placed on Probation for a period of one (1) year on the conditions that Petitioner not violate any federal laws, any laws of the State of North Carolina (other than minor traffic infractions), any rules of the North Carolina Sheriffs' Education and Training Standards Commission, or any rules of the North Carolina Criminal Justice Education and Training Standards Commission; seconded by Sheriff Jack Smith. [**Attachment #35 for Roll Call Vote**] [**Attachment #36 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Amy McCraw**

Major Briscoe recused himself from this case and left the room.

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Ms. Amy McCraw is currently an applicant for detention officer certification through the Cleveland County Sheriff's Office. She has not previously held certification with the Sheriffs' Commission or the Criminal Justice Education and Training Standards Commission. The issue before the Sheriffs' Commission Members is whether there is a violation of the combination of four (4) or More class A or B Misdemeanors (commission or conviction) Commission Rule. Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #37**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #38**].

In May of 2018 Ms. McCraw filed for expungement of three (3) convictions that she pled guilty to in 1996. The Order for expungement was signed by a judge in October of 2018. Prior to the Final Agency Hearing, Ms. McCraw provided a certified copy of the expungement signed by the judge. Ms. Amy McCraw is no longer in violation of the Combination of four (4) or More class A or B Misdemeanors. Ms. Marie Evitt recommended that the Sheriffs' Commission Members adopt Legal Counsel's Proposed Final Agency Decision that there is no rule violation. Ms. Evitt stated that the Sheriffs' Commission can always go back to look at the commission of the offenses.

Ms. Amy McCraw addressed the Sheriffs' Commission Members and stated that she can't deny the offenses. Ms. McCraw stated that at that age, which was more than 20 years ago, she did not have responsibility and was never taught how to use a checking account. Since that time, Ms. McCraw stated that she has not written a check. What happened to her was a very valuable lesson.

Lt. Mauney addressed the Sheriffs' Commission Members and stated that Ms. McCraw is an excellent employee. Ms. McCraw comes in early and is called in often. Ms McCraw never complains and they can rely on her.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Jack Smith to enter into a closed session; seconded by Sheriff Landric Reid. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Landric Reid to enter into open session; seconded by Terry Johnson. **MOTION CARRIED.**

A **MOTION** was made by Chief Deputy Kim Johnson to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Ms. Amy McCraw that Petitioner's justice officer certification should not be denied and that Petitioner's request for justice officer certification is allowed; seconded by Sheriff Jack Smith. **[Attachment #39 for Roll Call Vote] [Attachment #40 for Final Agency Decision] MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Alfred Wortham**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Wortham is currently an applicant for detention officer certification through the Warren County Sheriff's Office. He has not previously held certification with the Sheriffs' Commission or the Criminal Justice Education and Training Standards Commission. The issue before the Sheriffs' Commission Members is the commission of a Combination of four (4) or More Class A or B Misdemeanors. Ms. Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge **[Attachment #41]**, and the Proposal for Decision as submitted by Legal Counsel **[Attachment #42]**.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

Mr. Wortham addressed the Sheriffs' Commission Members and apologized for not taking care of the situation the first time. He stated that he was ill advised by co-workers that told him not to worry about the situation. Mr. Wortham believes that his son-in-law at the time was just trying to get money out of him. Mr. Wortham stated that Mr. Peoples waited two (2) months before bringing charges against him and that he was asking him for money pretty regularly. Mr. Peoples also had his daughter asking him for money. They starting by asking for \$1,000 and he told them it wasn't going to happen. Mr. Wortham stated that he finally broke down and gave

them some money for the furniture. Mr. Wortham stated that he originally bought that furniture for them when they got married. Mr. Wortham stated that is all he has to say.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Ed McMahon to enter into a closed session; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson to enter into open session; seconded by Chief Deputy Kim Johnson. **MOTION CARRIED.**

A **MOTION** was made by Major Briscoe to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Alfred Wortham to grant Petitioner his justice officer certification; seconded by Sheriff Landric Reid. [**Attachment #43 for Roll Call Vote**] [**Attachment #44 for Final Agency Decision**] **MOTION CARRIED.**

III. FINAL AGENCY DECISION

Marie Evitt

***Linda Brooks**

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Ms. Linda Brooks was notified by certified mail but is not present. Legal Counsel is ready to go forward with her case.

Ms. Brooks is a Detention Officer applicant with the Hertford County Sheriff's Office and has been since September 08, 2017. The issue is Failure to Notify of a Class B Misdemeanor within five (5) business days. Legal Counsel Marie Evitt summarized the Proposal for Decision as submitted by the Administrative Law Judge [**Attachment #45**], and the Proposal for Decision as submitted by Legal Counsel [**Attachment #46**]. Legal Counsel did make one exception in their Proposed Final Agency Decision to the Conclusions of Law #14. This was to make clear that Ms. Linda Brooks did sign a form in 2001 about the reporting requirement. Legal Counsel also clarified that there were extenuating circumstances in this case.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Terry Johnson to enter into a closed session; seconded by Chief Deputy Kim Johnson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Landric Reid to enter into open session; seconded by Sheriff Terry Johnson. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Ed McMahon to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Ms. Linda Jean Brooks to Deny Petitioner's justice officer certification for a period of not less than five years, and that denial is Suspended for one (1) year based on extenuating circumstances on the conditions that Petitioner not violate any federal laws, any laws of the State of North Carolina (other than minor traffic infractions), any rules of the North Carolina Sheriffs' Education and Training Standards Commission, or any rules of the North Carolina Criminal Justice Education and Training Standards Commission; seconded by Major Briscoe. **[Attachment #47 for Roll Call Vote] [Attachment #48 for Final Agency Decision] MOTION CARRIED.**

III. SUMMARY SUSPENSION

Marie Evitt

***Coty D. Wood**

Mr. Wood did received notice of the Final Agency Decision hearing by certified mail but is not present.

Legal Counsel Marie Evitt addressed the Sheriffs' Commission Members and stated that Mr. Coty D. Wood was a certified Deputy Sheriff working for the Columbus County Sheriff's Office. On August 16, 2017, Mr. Wood tested positive for Cannabinoids/Carboxy-THC, a controlled substance prohibited by 12 NCAC 10B .0301(6)(c). Legal Counsel Marie Evitt summarized the Proposal for Final Agency Decision as submitted by the Administrative Law Judge [**Attachment #49**] and the Proposal for Final Agency Decision as submitted by Legal Counsel [**Attachment #50**]. On August 24, 2017 Mr. Wood was notified of his positive test results. Mr. Wood did not contest the validity of the test.

The Commission summarily suspended Mr. Wood's certification but deferred revoking his certification at that time. Instead of revocation, the Commission ordered an emergency summary suspension of his certification and ordered him to cease and desist from all activities as a justice officer and proposed action to revoke his certification for not less than five (5) years. Mr. Wood did request an administrative hearing within the 30 day timeframe. Legal Counsel did make some technical changes to the Administrative Law Judge's Proposed Final Agency Decision, but Legal Counsel's recommendation is the same; which is to affirm the cease and desist order with revocation of five (5) years. Ms. Evitt stated that she will need the Sheriffs' Commission to instruct her on when they want the revocation to begin. The Administrative Law Judge recommended the date Mr. Wood's suspension began which was February 01, 2018. Legal Counsel stated that the Sheriffs' Commission can begin Mr. Wood's revocation using the Final Agency Decision date of March 14, 2019.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

A **MOTION** was made by Sheriff Terry Johnson to enter into a closed session; seconded by Major Briscoe. **MOTION CARRIED.**

A **MOTION** was made by Chief Deputy Kim Johnson to enter into open session; seconded by Major Briscoe. **MOTION CARRIED.**

A **MOTION** was made by Sheriff Terry Johnson to adopt Legal Counsel's Proposed Final Agency Decision in the matter of Mr. Coty D. Wood to affirm the cease and desist order as well as the summary suspension of Petitioner's justice officer certification and to Revoke Petitioner's justice officer certification for a period of five (5) years beginning March 27, 2019; seconded by Sheriff Jack Smith. [**Attachment #53 for Roll Call Vote**] [**Attachment #54 for Final Agency Decision**] **MOTION CARRIED.**

IV. CONSENT AGREEMENTS

Diane Konopka

Director Konopka summarized the Consent Agreements offered by the Probable Cause Committee at their December meeting. Division staff has received agreements signed by the following officers:

Justin Peter Kraft – New Hanover County Sheriff's Office
Amy Rozzelle – Catawba County Communication
David Lentz Blackman – Scotland County Sheriff's Office
Savior Jones – Mecklenburg County Sheriff's Office
Vivian Douglas – Rutherford County Sheriff's Office
Barbara Ann Brown – Franklin County Sheriff's Office

All six (6) cases were Material Misrepresentation.

Vice Chairman Goodwin asked the Commission if there were any questions or comments. Negative response.

Legal Counsel informed the Commission Members that they do not have to accept the Consent Agreements, but if they do accept them, the Consent Agreements become a permanent part of their file.

A **MOTION** was made by Major Briscoe to accept the Consent Agreement reviewed by Director Diane Konopka; seconded by Sheriff Jack Smith. **MOTION CARRIED.**

IV. LEGAL COUNSEL'S REPORT

Ms. Marie Evitt summarized the Legal Counsel's Report. This report is available for review and includes administrative case files that are currently in the Office of Administrative Hearings. Ms. Evitt reviewed the various stages of litigation for the administrative cases as follows: [See Attachment #53].

- One (1) case involving Class B misdemeanors after the deputy/detention officer has been certified.
- Two (2) cases involving felony commissions.
- One (1) case involving four (4) or more Class A and B misdemeanors.
- Three (3) cases involving material misrepresentations.
- Four (4) cases involving a lack of good moral character.
- Four (4) cases involving a certified officer who has been charged and did not report that charge within the five day reporting period.
- One (1) denial or suspensions by CJ Commission.

* Note: Some of the case files involve more than one issue.

VI. ADJOURNMENT

A **MOTION** was made by Sheriff Jack Smith to adjourn the March 14, 2019, Sheriffs' Final Agency Decision meeting; Seconded by Sheriff Landric Reid. **MOTION CARRIED.**