MINUTES

OF

THE NORTH CAROLINA SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

DATE: October 05, 2018

TIME: 8:05 A.M.

SUBMITTED BY: Diane Konopka, Director Sheriffs' Standards Division

I. CALL TO ORDER

Sheriff Brad Riley

The North Carolina Sheriffs' Education and Training Standards Commission meeting was called to order by Chairman Riley on Friday, October 05th at 8:05 A.M. The Sheriffs' Commission Meeting was held at the Guilford County Sheriff's District 2 Office, 5440 Millstream Road, McLeansville, NC.

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

MEMBERS PRESENT

Sheriff B. J. Barnes Sheriff Jack Smith Sheriff Alan Cloninger Sheriff Steve Bizzell Sheriff John Ingram Sheriff Ed McMahon Sheriff Ricky Oliver Sheriff Alan Jones Sheriff David Mahoney Ms. Tracy McPherson Sheriff Brad Riley

MEMBERS ABSENT

Mr. Zack Koonce Mr. Jamie Markham Sheriff Alan Norman Mr. Marc Nichols Sheriff Dwayne Goodwin Sheriff Jerry Monette

STAFF

Diane Konopka	-	Director, Sheriffs' Standards Division
Sirena Jones	-	Deputy Director Sheriffs' Standards Division
Judy Marchetti	-	Admin. Ass't Sheriffs' Standards Division
Marie Evitt	-	Legal Counsel – NC Department of Justice
Jason Cacacmo	-	Legal Counsel – NC Department of Justice
Chris Batten	-	Field Representative - Sheriffs' Standards Division

Sheriff Riley welcomed everyone to the October Sheriffs' Commission meeting and thanked Sheriff B. J. Barnes for offering to host the Sheriffs' Commission Meeting after the originally scheduled September Sheriffs' Commission Meeting to be held in New Bern was cancelled due to hurricane Florence.

Legal Counsel Marie Evitt introduced attorney Jason Cacacmo with the Department of Justice to the Sheriffs' Commission Members.

In the first order of business, Legal Counsel Marie Evitt 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 Marie Evitt asked whether any member had a known conflict or appearance of conflict with respect to any matters coming before the Commission at this time.

Sheriff Riley asked if there was any other conflict or appearance of conflict with respect to any matters coming before the Commission at this time. Negative response.

VISITORS

Trevor Allen	-	NC Justice Academy
Jonathan Price	-	Wake County Sheriffs' Office
Eddie Caldwell	-	NC Sheriffs' Association
Steven Combs	-	CJ Standards Director
Bradford Sneeden	-	NC Dept. of Justice-Legislative Liaison
Seth Dearmin	-	NC Dept. of Justice-Chief of Staff
Josh Stein	-	NC Attorney General

II. MINUTES OF JUNE MEETING

A **MOTION** was made by Sheriff Ed McMahon to accept the minutes of the June 2018 meeting; Seconded by Sheriff Jack Smith. **MOTION CARRIED.**

III. <u>CERTIFICATES/AWARDS/RESOLUTIONS</u> – (Attachment #1)

A **MOTION** was made by Sheriff Alan Jones to approve the list of Professional Certificates and Service Awards; Seconded by Sheriff Alan Norman. **MOTION CARRIED.**

The Sheriffs' Commission Members presented Chairman Brad Riley with a gift of appreciation for his service as the Sheriffs' Commission Chairman. Sheriff Brad Riley will retire in December as the Cabarrus County Sheriff.

Sheriff Riley addressed the Sheriffs' Commission Members and stated that the NC Sheriffs' Education and Training Standards Commission is a valuable tool for Sheriff's. Sheriff Riley stated that being a part of the Commission has been a wonderful learning experience for many years and he has enjoyed every minute of serving alongside the great Division Staff and Commission Members.

IV. INFORMATIONAL REPORTS

*NC Sheriffs' Association

Eddie Caldwell

Mr. Caldwell addressed the Sheriffs' Commission Members and thanked them for their time. He thanked Sheriff Riley for his service as Chairman of the Sheriffs' Commission as well as being a great leader and keeping a steady hand on the Commission guiding it forward.

Mr. Caldwell informed the Sheriffs' Commission Members that the SMCP Training Classes are underway for "Receiving" counties. Martin and Wake Counties have completed their training. Training is scheduled at the following three (3) locations:

Duplin County will be rescheduled to a December date due to Hurricane Florence. Haywood County – Monday, October 8th. Catawba County – Tuesday, October 9th.

This is a mandatory course for approximately 63 "receiving" counties in the Statewide Misdemeanant Containment Program. If a receiving county does not send a person to one of the scheduled classes, their participation in the SMCP will be discontinued immediately after the last class is completed until next year.

The normal schedule for Legislative Update classes was reversed due to hurricane Florence. Classes will be scheduled in the Western counties first in October:

Haywood County, Tuesday, October 16th Catawba County, Wednesday, October 17th Wake County, Thursday, October 18th Martin County, Monday, November 26th Duplin County, Tuesday, November 27th

The Sheriffs' Leadership Institute is a four (4) week class designed by Sheriffs for newly elected Sheriffs. The first week will begin Sunday, November 11 - 16. All the candidates have been notified except those running against a seated Sheriff. If a seated Sheriff is defeated in the election, the Sheriffs' Association will make contact with the winner to notify them of the Sheriffs' Leadership Institute beginning Sunday, November 11^{th} .

The following Thursday, 11/15 and Friday, 11/16 is the Sheriffs' Association Fall Meeting. The Fall Meeting will be held in Chapel Hill. The objective is to have all the newly elected Sheriffs at the Fall Meeting with the veteran Sheriffs.

The North Carolina Sheriffs' Association Training Committee meeting was postponed due to hurricane Florence. The Training Committee meeting co-chaired by Sheriff Alan Jones and Sheriff Terry Johnson will be rescheduled. Participation is very important whether you are on the committee or not. Mr. Caldwell stated that if any Sheriff or Division Staff has something that they feel is a training need, please let them know. The best way to meet specific training needs is to receive input regarding training topics.

Chairman Riley asked the Commission Members if there were any questions. Negative response.

*North Carolina Justice Academy

Trevor Allen

Mr. Trevor Allen addressed the Sheriffs' Commission Members and thanked them for the opportunity to present the North Carolina Justice Academy updates. Mr. Allen provided the Sheriffs' Commission Members with a summary report for their information. [Attachment #1].

The Justice Academy had some personnel changes to announce:

Mr. Dan Worley was promoted to Senior Developer Training Coordinator I on August 1st. Mr. Worley has been an instructor for 11 years with the NC Justice Academy. He has served as the Chair of the SMI and Specialized Driver Instructor training Revision Committees.

Mr. Kevin Tingen was hired as an Instructor/Developer. Mr. Tingen worked with the Cary Police Dept. for 28 years and retired as Captain.

Ms. Jessica Bullock was hired as an Instructor/Developer. Ms. Bullock was employed with the NC Dept. of Public Safety Division of Adult Correction and Juvenile Justice as Chief Probation and Parole Officer.

Ms. Merrily Cheek was hired as an Instructor/Developer. Ms. Cheek was employed with the Orange County Sheriffs' Office.

Mr. Paul Phelan was hired as an Instructor/Developer for Sex Crimes, Domestic Violence and Crisis Negotiation. Mr. Phelan was employed with the Florida Dept. of Juvenile Justice as a Detention Sergeant.

Mr. William Loucks was hired as an Instructor/Developer for Narcotics and Background Investigation. Mr. Loucks was employed with the Metro Nashville Police Dept. as a Narcotics Detective and previously served in the United States Army as a Flight Engineer.

School Resource Officer training is an issue that has gained a lot of attention. Mr. Allen had the opportunity to present before the Governor's Crime Commission with Sheriff Cloninger and Sheriff Harrison. The Justice Academy is developing a train the trainer program for school safety. This program should be ready by January 01, 2019.

The Justice Academy has been working toward converting more training courses to on-line. This will help so law enforcement officers don't have to be taken off the streets for training.

On October 11th the Justice Academy is celebrating the 20th anniversary of the Edneyville Campus. The reception will begin at 2:00 pm and everyone is invited.

Chairman Riley asked the Commission Members if there were any questions. Negative response.

V. OTHER REPORTS

*Probable Cause Committee

Sheriff David Mahoney reported that the Probable Cause Committee met on October 04, 2018, and during that session, the Committee reviewed a total of 47 cases. In seventeen (17) cases, Probable Cause was found, with one (1) case resulting in a Consent Agreement to be executed at your next meeting. No Probable Cause was found in seventeen (17) cases, three (3) cases were postponed at the agency's request, and seven (7) cases were closed pursuant to the Consolidated Probable Cause Policy.

Chairman Riley asked the Commission Members if there were any questions. Negative response.

VI. DIVISION REPORT [Attachment #2]

Diane Konopka

Sheriffs' Standards Division Director Diane Konopka addressed the Sheriffs' Commission Members and asked if anyone knew what happened 35 years and 22 days ago. The answer is that was the first Sheriffs' Standards Commission Meeting. If four (4) meetings were held each year, this would be the 140th meeting. Mr. Eddie Caldwell provided another historical fact. Mr. Caldwell has a letter in the official files of the Sheriffs' Association written by then Orange County Sheriff Lindy Pendergrass to his legislative delegation telling them what a bad idea it was to create the Sheriffs' Commission.

*Summary of Division Activities/Staffing [Attachment #2]

Director Konopka provided the Sheriffs' Commission a brief summary of the Sheriffs' Standards Division's activities. The Sheriffs' Standards Division is currently fully staffed.

On August 20th Jessica Fidotta began working as a Processing Assistant. She has replaced Processing Assistant Jessie Taub.

We are fortunate to have an intern working with us this summer. Natasha Greenway is a student at Wake Tech in the Forensic Science Technology degree program and she is working with us two days per week.

*BLET (Unit 6) Update [Attachment #2].

Director Konopka referred the Sheriffs' Commission Members to the Division Report **[Attachment #2]**.

At the last two (2) Sheriffs' Commission meetings there was discussion about the rules change that was proposed by the Criminal Justice Commission to allow Unit 6 to be removed from BLET. Ms. Konopka stated that she is happy to report that after hearing concerns voiced by Sheriff Riley, Sheriff Cloninger, Sheriff Jones and Sheriff Goodwin; the CJ Commission Planning and Standards Committee decided to abandon that proposed change and keep BLET as is for now.

Sheriff Mahoney

*2019 Rules [Attachment #2]

Director Konopka referred the Sheriffs' Commission Members to **Tab 1** of the Division Report **[Attachment #2]**.

Director Konopka stated that the Division has moved forward with the rule making process and changes are scheduled to take effect on January 01, 2019. Part of the requirement of that process is that there is a public comment period. There was one (1) comment in regards to the rule for SRO training. A copy of that comment is provided with the Division Report [Attachment #2]. The Sheriffs' Commission Members discussed the need to track officer's time when filling in temporarily for the SRO position. The SRO training requirement states that it must be completed within one (1) year. A recommendation was made to amend rule 12NCAC 10B.0510 to add "deputy sheriff's primarily assigned by their agency".

Mr. Eddie Caldwell asked if the amending of rule 12NCAC 10B.0510 could be postponed until the December 2018 Sheriffs' Commission Meeting. Mr. Caldwell believes the current proposed rule is problematic. Director Konopka believes the rule needs to be voted on prior to the December meeting. Criminal Justice Director Steve Combs asked the Sheriffs' Commission Members if they would like to get both Commissions together to discuss the SRO rule issue.

Attorney General Stein addressed the Sheriffs' Commission Members and expressed his concern of putting the SRO rule off and not being able to meet the current effective date of January 01, 2019. Chairman Riley responded that their goal is to get both Commissions together to amend the rule before the December Sheriffs' Commission Meeting and meet the January 01, 2019 date. Director Konopka stated that if they approve the rule as is, they will still be able to edit it prior to the December Commission Meeting. If they amend the rule heavily with changes, it will have to go through the entire rules process again.

Chairman Riley tabled approving the SRO rule 12NCAC 10B.0510 until members of the Sheriffs' Commission and Criminal Justice Commission meet to revise the rule. This meeting will take place as soon as possible in order to meet the effective date of January 01, 2019. The language will not be amended so heavily that the rule be required to go through the complete rules process again.

Sheriff Cloninger asked Mr. Allen if SRO Training at the North Carolina Justice Academy is prepared. Trevor Allen stated that the Justice Academy is prepared to support the SRO training need. Sheriff Cloninger asked Tracy McPherson if the Community Colleges were prepared. Ms. McPherson stated that they are ready to partner in any way needed.

A **MOTION** was made by Sheriff Alan Cloninger to accept the first two rule changes as presented by Director Konopka, but to table the SRO rule 12NCAC 10B.0510 until the Sheriffs' Commission and Criminal Justice Commission members meet to amend said rule; seconded by Sheriff David Mahoney. **MOTION CARRIED**.

*Attorney General Josh Stein

Attorney General Josh Stein addressed the Sheriffs' Commission Members and thanked Sheriff Riley for his service as Chairman of the Sheriffs' Training and Standards Commission. Attorney General Stein thanked the Commission for taking on the School Resource Officer training issue as it is an important one. Training is a very important issues to have personnel in place that know how to de-escalate a situation as well as respond to an active shooter event. The goal for North Carolina is to have the best possible response to situations that may occur at our schools.

Attorney General Stein stated that Hurricane Florence caused major devastation to coastal counties such as Brunswick and New Hanover counties. Mr. Stein will be in Craven County next week with Sheriff Monette. The Attorney General's Office has been focusing primarily on price gouging. A lawsuit was filed last week against a tree removal outfit out of Davidson County but doing work in New Hanover County. The vast majority of businesses are there to help people but there are always those that are motivated by greed and will try to take advantage of people.

An issue the Attorney General's Office is working on that will be of interest to you is the testing of untested sexual assault kits. At the Attorney General's Office recommendation, the Legislature instituted a requirement for a tracking system of sexual assault kits. Going forward, anytime a victim of sexual assault gives evidence, that evidence will receive a barcode. Everybody will know where that kit is at all times by just typing in the number. This includes law enforcement, the prosecutor, defense attorney and the victim. There will be a meeting in early December with a select committee to make recommendations to the Legislature to develop a protocol for how law enforcement should handle sexual assault kits going forward. What the Attorney General's Office does not want to have happen is what has happened in years past. Currently, there are 15,000 untested sexual assault kits across the state. Unfortunately, the Legislature did not fund their request for appropriations to outsource those untested kits. Yesterday, the U.S. Department of Justice awarded the State Crime Lab two million dollars. Half of that money will be used to outsource sexual assault kits. The Attorney General's Office and Sheriffs' Association will be going back to the Legislature for more funding.

The Attorney General's Office is looking for support of the Criminal Justice Fellows Program. This program applies to all criminal justice personnel. The idea of the Fellows Program is to attract the best and the brightest to go into law enforcement. Last year the Legislature authorized this program but did not put any money behind it. We will go back to the Legislature to make sure funding is put into the Fellows Program. Those are a few items the Attorney General's Office has been working on that may be of interest and relevance to the Sheriffs' Commission for the work you do. Attorney General Stein stated that he is extremely appreciative of each and every one of the members for the service they provide to this Commission to ensure we have the best law enforcement we can possibly have in North Carolina. Attorney General Stein is proud to be an ally in that effort.

Chairman Riley asked the Commission Members if there were any questions.

Sheriff Barnes made a comment about the 15,000 sexual assault kits that the Attorney General's Office inherited. Sheriff Barnes stated that he believes in Regional Labs for DNA testing.

Attorney General Stein stated that a new Western Crime Lab has recently been set up and is fantastic. It is on the North Carolina Justice Academy's Western Campus. They now have 10 DNA scientists where they had none. Currently North Carolina has a lab in Raleigh, NCJA Western Campus and a regional crime lab in Greensboro.

Sheriff Cloninger commented about workmen from other states during a hurricane and how there is no recourse when residents are taken advantage of. Sheriff Cloninger believes that workers from other states should have to register in order to work during emergency situations. Attorney General Stein agrees that would be a good idea to look into.

Sheriff Brad Riley thanked Attorney General Stein for his time and attendance at the Sheriffs' Commission Meeting.

2019 Rules [Attachment #2]

Sheriffs' Commission Members and staff discussed concerns about not making a motion at this time accepting the SRO Rule. Commission Members decided to adopt the proposed SRO rule, but to remove the word "certification" from the title.

A **MOTION** was made by Sheriff Alan Cloninger to accept the SRO rule 12NCAC 10B.0510 but with the removal of the word "certification" from the title; seconded by Sheriff Alan Jones. **MOTION CARRIED**.

Director Konopka informed the Sheriffs' Commission Members that Deputy Director Sirena Jones found an issue with the Extensions language. Director Konopka referred the Commission Members to **Tab 2** of the Division Report **[Attachment #2].** The recommendation is to change line 10 from "shall" to "may".

A **MOTION** was made by Sheriff Ed McMahon to change line 10 [ref. tab 2, Attachment #2] of the Extension language from "shall" to "may"; seconded by Sheriff David Mahoney. **MOTION CARRIED**.

*1st Choice Topics – IADLEST National Certification Program

Director Konopka referred the Commission Members to **Tab 3** of the Division Report [**Attachment #2**].

Sheriff Commission Members decided to table a motion for a proposed rule change until after a presentation is made by Peggy Schaffer. Director Konopka will make contact to arrange a presentation for the December meeting.

Firearms In-Service Manual [Attachment #2]

Director Konopka addressed the Sheriffs' Commission Members with regard to Firearms Inservice manual changes.

A **MOTION** was made by Sheriff Ed McMahon to accept the Firearms in-service manual changes as presented; seconded by Sheriff Alan Jones. **MOTION CARRIED**.

*NC Law Enforcement Accreditation [Attachment #2]

Director Konopka referred the Sheriffs' Commission Members to **Tab 5** of the Division Report to review the results of the survey that was sent out to all 100 Sheriffs. Director Konopka received responses from 23 Sheriffs.

*CJ Fellows Program Update [Attachment #2]

This first Criminal Justice Committee Meeting for the Fellows Program was held in Raleigh. Director Konopka thanked Sheriff Ricky Oliver and Sheriff Ed McMahon for their participation on that committee.

*Giglio Disclosure Update [Attachment #2]

Director Konopka addressed the Commission Members and referenced the discussion at the last Commission Meeting regarding Giglio disclosure. Staff is currently looking into the language to add to the Personal History Statement. Director Konopka asked the Sheriffs' Commission Members for a little more time to make those changes until more information is received from the Conference of District Attorneys.

*Task Analysis [Attachment #2]

Director Konopka informed the Sheriffs' Commission Members that a BLET Task Analysis is currently in process. The last major BLET revision was in 2000. Director Konopka informed the Commission Members that the last Detention Task Analysis was performed in 2003 and the last Telecommunicator Task Analysis was performed in 1998. It cost money to have a Task Analysis done and the Sheriffs' Standards Division does not have the money for that expenditure at this time. Director Konopka stated that she would like to get together with CJ Deputy Director, Michelle Schilling to discuss getting quotes for Task Analyses. Director Konopka asked the Sheriffs' Commission Members for their permission to pursue avenues of funding and receiving quotes for both Detention and Telecommunicator Task Analyses. Sheriff Riley agrees that this is an important project. The Sheriffs' Commission Members gave Director Konopka their permission to pursue this project.

*Other Business/Discussion [Attachment #2]

Director Konopka addressed the Sheriffs' Commission Members regarding Basic Certificates. The Criminal Justice Commission has made the decision to do away with Basic Certificates. In order to get a Basic Certificate an Officer must also be eligible for General Certification, which means they have worked for one year, completed basic training and have had their fingerprints processed.

So far this year, Sheriffs Standards has sent out 500 - 600 Basic Certificates. Director Konopka stated that she did not know if anyone would notice if the Basic Certificates were not sent, but just recently an individual did call to follow-up on a Basic Certificate because they associated a pay raise with getting a Basic Certificate.

Director Konopka asked the Sheriffs' Commission Members if they would be interested in sending out a survey to the Sheriff's Offices regarding the interest. Director Konopka noted that the Basic Certificate basically means the same thing as receiving General Certification.

Chairman Riley asked Director Konopka to perform the survey of all Sheriff's Offices with regard to the possible elimination of Basic Certificates.

Director Konopka addressed the Sheriffs' Commission Members regarding their interest in having a Planning Session on the first day of Commission in the morning since Final Agency Decision does not begin until 2pm. The Sheriffs' Commission Members stated that they will give it a try at the December Sheriffs' Commission Meeting. The following Sheriffs volunteered to be a part of the Planning Session:

Sheriff Ed McMahon Sheriff Jack Smith Sheriff Ricky Oliver Sheriff Alan Cloninger Ms. Tracy McPherson

Director Konopka addressed the Sheriffs' Commission regarding a Legislative action that will require action by both Commissions. The first is the Hope Act which was passed by the Legislature which will be effective July 01, 2019. The Legislature requires that there be training for diversion investigators and supervisors. The SBI is currently doing this training.

Director Konopka asked the Commission Members if they were in agreement with Criminal Justice Standards taking on the Rule to comply with this Legislation rather than having two separate rules. Chairman Riley would like to let Criminal Justice make the Rule in compliance with the legislation.

A **MOTION** was made by Sheriff David Mahoney to enter into a closed session; seconded by Sheriff Alan Jones. **MOTION CARRIED**.

A **MOTION** was made by Sheriff Steve Bizzell to enter into open session; seconded by Sheriff Ricky Oliver. **MOTION CARRIED**.

Request for Basic Training Extensions (Attachment #2)

Jessica Rae Geelen – Telecommunicator – Holly Springs Police Department (Tab 6)

A **MOTION** was made by Sheriff Ed McMahon to accept the Request for Basic Training Extension for Jessica Rae Geelen; seconded by Sheriff Jack Smith. **MOTION CARRIED**.

A **MOTION** was made by Sheriff David Mahoney to approve all the Requests for Extensions previously approved by Chairman Brad Riley; seconded by Sheriff Alan Jones. **MOTION CARRIED**

VII. NEXT MEETING

December 13th and 14th 2018 - Wake County

The following meeting dates have been approved for 2019:

 $\begin{array}{l} March \ 14^{th} \ \& \ 15^{th} \\ June \ 13^{th} \ \& \ 14^{th} \\ September \ 12^{th} \ \& \ 13^{th} \\ December \ 12^{th} \ \& \ 13^{th} \end{array}$

VIII. ELECTION OF OFFICERS

A **MOTION** was made by Sheriff Steve Bizzell to nominate Sheriff Alan Cloninger as Sheriffs' Education and Training Standards Commission Chairman; seconded by Sheriff Jack Smith. **MOTION CARRIED**

A **MOTION** was made by Sheriff Alan Jones to nominate Sheriff Jerry Monette as Sheriffs' Education and Training Standards Commission Vice-Chairman; seconded by Sheriff Ed McMahon. **MOTION CARRIED**

A **MOTION** was made by Sheriff Jack Smith to nominate Sheriff Steve Bizzell as Sheriffs' Education and Training Standards Commission Vice-Chairman; Sheriff Bizzell declined nomination. Sheriffs' Education and Training Standards Chairman Sheriff Alan Cloninger appointed Sheriff David Mahoney, Sheriffs' Education Training and Standards Probable Cause Chairman.

IX. ADJOURNMENT

A **MOTION** was made at 11:30 a.m. by Sheriff Steve Bizzell to adjourn the October 2018 Sheriffs' Commission meeting; Seconded by Sheriff David Mahoney. **MOTION CARRIED**.