

DEPUTY SHERIFFS' EDUCATION AND TRAINING BOARD

Minutes of the May 17, 2013 Meeting

Members Present

Carmen C. DeLuca
David M. Godfrey
Mark Kellam
Wayne E. Nothstein
Eric Weaknecht
Margherita Patti-Worthington

Commission Staff Present

Doug Hummel
Donald Numer
John Pfau
Deborah Williams
Jennifer McConnell

Members Absent

Kurt Eisele
Linda Dale-Hoffa
Todd A. Martin
Ronald C. Nagle

Others Present

Pennsylvania State University
Robert Stonis
Don Zettlemoyer

Pennsylvania State University – Fayette
Ted Mellors

Temple University
Anthony Luongo
Christie Willard

Pennsylvania Sheriffs' Association
Beth Appleby

Cumberland County Sheriff's Office
Ronald Anderson
Jody Smith

York County Sheriff's Office
Greg Witmer

Public
Kurt Rice

The May 17, 2013 meeting of the Deputy Sheriffs' Education and Training Board (DSETB) was called to order by Chairman Carmen DeLuca, at 8:00 a.m., at the Days Inn, 240 South Pugh Street, State College, Pennsylvania 16801.

Chairman DeLuca asked if everyone had the opportunity to review the minutes of the February 26, 2013 DSETB meeting. He stated that if there were no questions, then he would entertain a motion to approve the minutes.

Deputy Mark Kellam made a motion to approve the DSETB minutes from the February 26, 2013 meeting. Judge Margherita Patti-Worthington seconded the motion and it passed with the following votes:

Voting Aye: Board Members DeLuca, Godfrey, Kellam, Nothstein, Patti-Worthington and Weaknecht

Voting Nay: None

Chairman DeLuca asked Mr. Numer to provide the DSETB fiscal report. Mr. Numer reviewed the DSETB fiscal report for state fiscal year 2012-2013, for the period ending March 31, 2013. The balance from the previous year was \$14,124,834.70. Fee collections from July 1, 2012 through March 31, 2013, was \$3,885,717.59. The estimated fee collections for the fiscal year is \$4,797,674.00. The total funds available at March 31, 2013 was \$18,922,508.70. The total expenditures and commitments as of March 31, 2013 was \$16,301,810.59. The estimated balance as of March 31, 2013 was \$2,620,698.11. Mr. Numer explained that the estimated fee collections are lower this fiscal year than in past years. He suggested that this could be due to less civil process being conducted by the counties. Mr. Numer explained that the account balance is much lower than in previous fiscal reports. This is because the report reflects all committed funds to contracts that extend well beyond the end of the current fiscal year. Fee collections only reflect the current fiscal year. Mr. Numer explained that all contract funds not expended are returned to the training account. We should expect the balance to increase as non-expended funds are returned to the account.

Judge Patti-Worthington made a motion to approve the DSETB Fiscal Report. Sheriff Eric Weaknecht seconded the motion and it passed with the following votes:

Voting Aye: Board Members DeLuca, Godfrey, Kellam, Nothstein, Patti-Worthington and Weaknecht

Voting Nay: None

Mr. Numer provided the Training Supervisor's Report.

Mr. Numer explained that the DSETB is governed by legislation (Act 1984-2). Enacting legislation is a lengthy process. The advantage of enacting legislation is that it is law and it is hard for someone to challenge the law. Regulations are not as strong as legislation

but must be approved by the Regulatory Review Commission. Creating regulation is a lengthy process. It could take up to 2 years to create regulations. Policy is created and approved by the DSETB. It is easier to create. The DSETB could implement policy by voting to approve a particular policy. Policy is flexible but not as strong if challenged. Board policy may also be approved by the Pennsylvania Commission on Crime and Delinquency (PCCD).

Mr. Numer referred the DSETB to page thirteen of the meeting packet. He informed the DSETB regarding potential legislative changes to Act 1984-2. Staff of the PCCD met with the Local Government Commission and representatives from the Pennsylvania Sheriffs' Association and the Pennsylvania County Commissioners' Association to discuss the changes. The proposed legislation is in draft form and several changes were agreed upon at the meeting. Mr. Numer stated that nothing is certain. He explained the major initiatives, additions, and/or changes as staff understood.

The Act would change its name to Sheriff and Deputy Sheriff Training Act. The Board would be responsible for certifying and recertifying sheriffs in the same manner as deputies. Sheriffs, who are in office as of the date of the changes would be "grandfathered." Newly elected (or appointed) sheriffs would be required to attend and successfully complete training for certification and recertification. Sheriffs would have either two years or until the completion of their first term to become certified (still being considered).

There was still much discussion on the penalties for not gaining certification or recertification. Due to the Constitutional nature of the office, there was hesitation in trying to remove a sheriff from office. Possibly a prohibition against running for re-election may be possible. It's also possible that the sheriff would be declared "unfit for office" and either the local District Attorney could challenge their qualifications and try "by proceedings of quo warranto as provided by law." The penalty might also be the political fallout of trying to run for re-election with a Commonwealth Board declaring you "unfit."

The Board would be given the power to rescind/remove/decertify a sheriff or deputy for cause. This would either be established in legislation or by regulation. *The Local Government Commission would like to know if the Board had a preference.* Depending on the workload, this might also require more staffing. Current wording in the proposed legislation provides for decertification for the commission of a felony or removal by the sheriff for "just cause." Mr. Numer asked if the DSETB agreed with the proposed wording in the legislation or would prefer the wording to be changed allowing the DSETB to create regulation detailing the decertification process.

Deputy Kellam asked if the decision on the decertification process is required now. Mr. Numer stated that a decision is not necessary today because he understood that the proposed legislation will not be introduced until the next session in the fall of 2013. Mr. Numer stated that legislation is hard to challenge but less flexible than regulation. Mr. Numer stated that he is supportive of the proposed wording of the legislation. Mr. John

Pfau suggested that the DSETB could leave the proposed wording and ask to have wording added to allow for the creation of regulation to address additional governance for the decertification process.

Deputy Kellam asked how much flexibility the DSETB would have by supporting the proposed legislative changes. Mr. Numer stated that the DSETB would not have flexibility because it would be law. Flexibility may exist if a decertification is challenged. Mr. Numer explained that a sheriff may terminate a deputy for “just cause” but the DSETB may not agree to decertify the deputy. This does not mean the sheriff would be required to employ the deputy. This person may find employment with another sheriff’s office.

Chairman DeLuca asked what happens when a sheriff terminates a deputy for “just cause.” Mr. Numer stated that we enter the termination date in the database. No other information is kept regarding the termination. Mr. Numer stated the deputy could work for another county or seek employment in another state.

Sheriff Ron Anderson stated that the proposed implementation of the decertification of deputy sheriffs began when the sheriff’s were advocating for their arrest powers to be restored. The Pennsylvania Chiefs’ of Police Association stated that municipal police can have their certification revoked and deputy sheriffs do not have a decertification process. He stated that sheriffs want similar compliances to that of municipal police. Commissioner Nothstein and Judge Patti-Worthington asked what process the sheriffs were utilizing. Sheriff Anderson stated that they are seeking changes through legislation.

Lieutenant Godfrey expressed that he would prefer to support legislative changes rather than changes through regulation. In the past, the DSETB had issues with implementing physical fitness standards. He stated that with a legislative change it would be definitive.

Chairman DeLuca asked if we are an investigative body. Mr. Numer stated that currently we are not. If the DSETB is charged with presiding over review hearings, then staff may need to investigate and gather information regarding the cases. Judge Patti-Worthington stated that there is a difference between a hearing board and an investigative board. Mr. Pfau stated that the PCCD attorney would represent the DSETB and defend the Board’s position.

Commissioner Wayne Nothstein asked if the legislation included mandatory training for sheriffs. Mr. Numer stated that sheriffs would be required to attend the same training as deputies.

Staff requested that the wording requiring, “All moneys received by the treasurer in excess of the training program shall be transferred from the special restricted receipts account to the General Fund” be removed to allow the DSETB to better manage and forecast its resources, especially with the changes which would require added expenses.

Mr. Numer asked the DSETB for their consensus on the wording of the legislation. Mr. Numer needs to report the Board's position on decertification. First choice would be to support the current proposed language. The second choice would be to support current language with added language to allow the DSETB to implement regulations to further define the decertification process. The third choice would be to not support the proposed decertification language and support a stance that would allow the DSETB to propose the decertification process through regulation.

Commissioner Nothstein asked if Mr. Numer felt the legislation had enough support to be enacted. Mr. Numer stated that anything can happen, but he believed the support existed.

Judge Patti-Worthington stated that the strongest support the DSETB could have would be by implementing legislation. She asked how much input would the DSETB have for determining the criteria for decertification. Mr. Numer stated that the current language includes felony offenses and "just cause." Mr. Numer stated that the DSETB does not have an exact time limit for input, but he suggested the DSETB provide input within 1 month. Commissioner Nothstein suggested that once the DSETB has a stance on this matter then a meeting should be arranged with the prime sponsor of the bill. Mr. Numer stated that the Local Government Commission is writing the proposal for legislation. It currently has no number and has not been introduced to the Legislature. Mr. Numer stated that he will prepare the wording and email each member on Monday for their input.

At the February 26, 2013 meeting, the consensus of the DSETB was for staff to draft a reimbursement policy for Board consideration. Mr. Numer informed the DSETB that a reimbursement policy is being developed. The proposed policy will include a 1.5 year expiration date for training expense vouchers. This time limit has been the common practice in processing reimbursement requests. In April 2013, a Training Bulletin was issued to all sheriffs' offices explaining the reimbursement process and limitations. Mr. Numer explained that all sheriffs can monitor their reimbursements electronically.

Mr. Numer stated that staff believes that the Board should limit in Policy the time a deputy or law enforcement officer may be beyond their qualifying training or employment and still be eligible for re-employment or a partial waiver. Currently, no limit exists. Recently staff surveyed sheriffs in attendance at the quarterly PA Sheriffs' meeting. They were asked what period of time they would be comfortable with for a deputy or law enforcement officer to be away from law enforcement training or experience and be allowed to return without significant re-training. We had 27 respondents with the following results.

1 Year	0
2 Years	7
3 Years	5
4 Years	4
5 years	9
10 Years	2
Never Expire	0

Five years was the majority choice but the average was 3.9 years across all periods.

Mr. Numer recommended that after five years from last serving as a deputy sheriff, your training certification would expire. These individuals would need to repeat the Basic Training Academy. A former deputy returning to service within one year of his previous service would need to attend continuing education training. Mr. Numer suggested that a former deputy returning to service after one year but prior to five years would need to complete an on-line training course to include legal updates. Mr. Numer stated that the same time limits could also apply to those Act 120 graduates, retired municipal police officers and retired Pennsylvania State Troopers wanting to become deputy sheriffs.

Mr. Numer referred the DSETB to page ten of the meeting packet. Mr. Numer explained that the PA Sheriffs' Association requested that the DSETB offer several additional training opportunities for their deputies.

Police In-service Supervisory Training (POSIT) is a five day intensive training program for supervisors. It is currently offered by the Justice and Safety Institute, Pennsylvania State University. There are several options for delivery. The DSETB can offer a deputy only class at State College or vouchers to attend currently scheduled classes both here and in New Jersey (for those in Eastern PA). The cost for the program plus room and board is approximately \$1,000 per student. We have that currently budgeted in the PSU Master Agreement for contract year 2014. The Board offers an abbreviated 16-hour basic supervisory class as part of Continuing Education. That could be a pre-requisite for attendance.

Commissioner Nothstein asked if there would be a limit on the number of deputies permitted to attend per county. Mr. Numer explained that this course would be a Merit Course and not replace the mandatory continuing education training. Mr. Numer stated that he did not anticipate the need to limit enrollment. Sheriffs would need to approve each deputy that they want to attend this training.

Lieutenant Godfrey stated that his office sends their supervisors to this training and it costs approximately \$700 per person. Due to budgetary restraints, they can only afford to send a limited number of supervisors to the training. He recommended the course and they would utilize the course if provided by the DSETB.

Judge Patti-Worthington made a motion to fund the POSIT training at a cost not to exceed \$35,000. Deputy Kellam seconded the motion and it passed with the following votes:

Voting Aye: Board Members DeLuca, Godfrey, Kellam, Nothstein, Patti-Worthington and Weaknecht

Voting Nay: None

Active Shooter Training is offered in a number of formats around the country. Within the last five years, there have been at least 15 prominent, high-casualty producing active shooter incidents. Most of these cases have occurred in locations where the shooter has been undeterred and unobstructed from carrying out their attack. The incident locations have often been described as *soft targets* with limited active security measures or armed personnel to provide protection for members of the public. In most instances, shooters have either taken their own lives, been shot by police, or surrendered when forced with a confrontation by law enforcement.

Staff proposed a 2 day program offered nine times during the Continuing Education Training Cycle 2013 – 2015. Temple University would provide this training as part of their Continuing Education contract renewal. These would be regionally located precluding overnight support. The expressed desire is to provide hands-on response training.

Deputy Kellam made a motion to host the proposed Active Shooter Course as part of the DSETB Merit Training Program. Lieutenant David M. Godfrey seconded the motion and it passed with the following votes:

Voting Aye: Board Members DeLuca, Godfrey, Kellam, Nothstein, Patti-Worthington and Weaknecht

Voting Nay: None

Mr. Doug Hummel reviewed the training request submitted by Sheriff Ray Geringer, Montour County. The request was for the DSETB to grant Deputy Ryan Blee one additional opportunity to attempt the Basic Training Academy's Physical Fitness Test. Deputy Blee attended class B-12-03 beginning August 13, 2012. He was expected to graduate on December 21, 2012. Deputy Blee failed his final physical fitness test on December 20, 2012 and was dismissed from the academy. Specifically, he failed the 1.5 mile run by 1 minute and 2 seconds.

Sheriff Geringer's written request was included in the meeting packet. If Deputy Blee would be granted an additional opportunity to attempt the physical fitness test, Sheriff Geringer would attest that Deputy Blee can complete the test prior to his return.

Mr. Numer explained that in past practice, the DSETB has granted additional physical fitness tests, provided that the sheriff verified in writing that the deputy passed the standards when the test was administered by his office, prior to the request being sought. In this case, Sheriff Gerringer made the request prior to verifying that Deputy Blee passed the test when administered by his office.

Lieutenant Godfrey stated that he would not support the request. Judge Patti-Worthington stated that the DSETB needs to be consistent in making decisions.

Judge Patti-Worthington made a motion to deny the training request and to notify Sheriff Gerringer and recommend that he test Deputy Blee and verify his ability to pass the physical fitness test prior to requesting an additional test. Lieutenant Godfrey seconded the motion and the training request was denied with the following votes:

Voting Aye: Board Members DeLuca, Godfrey, Kellam, Nothstein, Patti-Worthington and Weaknecht

Voting Nay: None

Mr. Hummel reviewed the time waiver request submitted by Sheriff Thomas Lyter, Juniata County. Sheriff Lyter requested a time waiver for Deputy John L. Langan, Jr. Deputy Langan was a full-time employee of the Juniata County Prison and a part-time Deputy Sheriff. The Juniata County Prison recently closed, causing Deputy Langan to lose his full-time employment. The sheriff's office is unable to provide Deputy Langan with full-time employment. To provide for his family, Deputy Langan is attending nursing school and is unable to attend the continuing education training prior to his expiration date. The request is for Deputy Langan to be granted a time waiver so he could continue serving as a part-time deputy until he is able to attend the required continuing education in April 2014. This Time Waiver Request did not comply with the DSETB Policy.

Mr. Hummel stated that within the limits of the DSETB Policy, the Board could grant a six month time extension to allow Deputy Langan the opportunity to make arrangements to attend class.

Lieutenant Godfrey made a motion to grant Deputy Langan a six month time extension. Commissioner Nothstein seconded the motion and it passed with the following votes.

Voting Aye: Board Members DeLuca, Godfrey, Kellam, Nothstein, Patti-Worthington and Weaknecht

Voting Nay: None

Mr. Hummel reviewed the list of Time Waivers approved by the Training Supervisor. Time extensions were approved for Deputy Jason McDermott, Elk County; Deputy Jeanne Rupp, York County; and Deputy Robert Snyder, Indiana County. The extensions

were due to medical issues. This was for informational purposes and did not require DSETB action.

Mr. Hummel reviewed the list of Partial Training Waiver Applications approved by the Training Supervisor. This was for informational purposes and did not require DSETB action. Mr. Hummel explained that these waivers are in accordance with the Training Policy.

Mr. Hummel reviewed the instructor application for Mr. Louis R. Lombardi. Penn State University requested his certification to instruct Motor Vehicle Law and Investigations for the Basic Training Academy. Mr. Lombardi was previously certified to instruct Criminal and Civil Law.

Deputy Kellam made a motion to approved the instructor application for Mr. Lombardi to teach Motor Vehicle Law and Investigations. Sheriff Eric Weaknecht seconded the motion and it passed with the following votes:

Voting Aye: Board Members DeLuca, Godfrey, Kellam, Nothstein, Patti-Worthington and Weaknecht

Voting Nay: None

Chairman DeLuca asked for the report on the Basic Training Delivery Contract. Mr. Zettlemoyer reported that the graduation ceremony for class 40 was today at 11:00 a.m. He invited all the DSETB members to attend.

Chairman DeLuca asked for the report on the Continuing Education Delivery Contract. Mr. Anthony Luongo informed the DSETB that the 2011-2013 training cycle will end in June 2013. He stated that classes will complete the training cycle in Harrisburg and Reading. The 2013-2015 training cycle begins in October 2013 in the Allentown area.

Chairman DeLuca asked for the report on the Curriculum Development Contract. Mr. Mellors stated that his curriculum team was working to convert the Crimes and Offenses curriculum for Basic Training into problem-based learning format. Videos were being produced to enhance Civil Law, Criminal Procedure, and Patrol Operations. A survey was being conducted to assist in the revision of the 80-hour Waiver Training Program.

Mr. Mellors stated that his staff was in the process of developing the curriculum for the 2013-2015 continuing education training cycle. An instructor training was scheduled for May 30, 2013 and May 31, 2013. This training was to discuss the continuing education curriculum with the Temple University instructors that will teach the courses. In addition, Mr. Mellors stated that the 2014 on-line merit courses were being developed. Two new courses will be offered in “Off Duty Carry” and “Outlaw Motorcycle Gangs.”

Mr. Mellors stated that he was in the process of evaluating several electronic notebooks/tablets for the potential use in the Basic Training Academy.

Chairman DeLuca asked for a motion to adjourn the meeting.

Judge Patti-Worthington made a motion to adjourn the meeting. Deputy Kellam seconded the motion and the meeting was adjourned at 9:20 a.m.

Voting Aye: Board Members DeLuca, Godfrey, Kellam, Nothstein, Patti-Worthington and Weaknecht

Voting Nay: None