



WASHINGTON STATE  
**CRIMINAL JUSTICE TRAINING COMMISSION**  
19010 1<sup>ST</sup> AVENUE SOUTH, BURIEN, WA 98148

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**COMMISSION MEETING**

Wednesday, December 12, 2012  
10 AM

**COMMISSION MEMBERS PRESENT:**

Jeff Myers (Chair), Chief, Hoquiam Police Department  
Bill Elfo (Vice Chair), Sheriff, Whatcom County (telephonically)  
Dan Satterberg, Prosecuting Attorney, King County  
Darell Stidham, Deputy, Spokane County Sheriff's Office  
Garry Lucas, Sheriff, Clark County  
John Batiste, Chief, Washington State Patrol  
Joshua Kelsey, Officer, Lynnwood Police Department  
Julie Anderson, Auditor, Pierce County (telephonically)  
Laura Wells, Citizen at Large  
Ned Newlin, Chief of Corrections, Kitsap County

**WSCJTC STAFF PRESENT:**

Sue Rahr, Executive Director  
Brian Elliott, Manager, Financial Services  
Greg Baxter, Manager, Human Resources  
Joel Gavino, Manager, Information Technology  
John Suessman, Commander, Basic Law Enforcement Academy  
Leanna Bidinger, Statewide Regional Training Manager  
Pam Clark, Commander, Corrections  
Rachelle Parslow, CIT/Private Security Program Administrator  
Roger Cook, Curricula Designer  
Sonja Hirsch, Executive Assistant  
Steve Lettic, Manager, Advanced Training Unit  
Tisha Jones, Manager, Peace Officer Certification

**GUESTS PRESENT:**

Bev Reinhold, Detective, Lacey Police Department  
C.W. Bryant, Oregon State Police  
Dave Brown, Sheriff, Skamania County  
Dave Heenan, Police Officer, Upper Skagit Tribal Police  
Dave P., Polygraph Examiner, Seattle  
David H, Director, Upper Skagit Tribal Police  
Don Carroll, Detective, Kirkland Police Department  
Doug Blair (telephonically)  
Douglas Orr, Detective, Spokane Police Department  
Glenn Hutchings, Assistant Chief, Swinomish Police Department  
Jana Bonzek, Polygraph Examiner, Bellingham Police Department  
Jean E. Meyn, Assistant Attorney General, Attorney General's Office  
Jerry Bates, Detective Sergeant, Pierce County Sheriff's Office

Jessica Klein, HR Associate, King County Sheriff's Officer  
Jessica Maeng, HR Associate, King County Sheriff's Office  
Jim Bloss, Vice President, NAMI Washington  
Jim Costa, Lieutenant, Olympia Police Department  
Jim Duscha, Chief, Longview Police Department  
Keith Barnes, Investigator, Pierce County Prosecutor's Office  
Lee Malrow, Detective, Snohomish County Sheriff's Office  
Mike Edwards, Captain, Seattle Police Department  
Monty Buettner, Sergeant, Skamania County Sheriff's Office  
Norm Matzke, Polygraphist, Seattle  
Paul Arroyos, Tulalip Police  
Rance Suttan, Chief, Tulalip Police  
Richard Peregrin, Retired WSP Detective, WSP—NPEA  
Rick B., Deputy, Clark County Sheriff's Office  
Rusty Miller, Polygraph Examiner, Bellingham Police Department  
Sally VanBeek, Detective, Everett Police Department  
Steve Birley, Retired, Chehalis Police Department  
Steve Norton, President, Northwest Polygraph Examiners  
Terry Ball, Private

The Chair called the meeting to order at 10:03 AM with a quorum present. Sonja Hirsch conducted roll call of the Commissioners.

### **Commissioner Welcome**

***Jeff Myers, Commission Chair***

**Dan Satterberg** is the newest Commissioner. He is a King County Prosecuting Attorney who was elected in November 2007 to succeed his longtime friend and mentor, the late Norm Maleng. He was re-elected in 2010 without opposition.

Dan served as Chief of Staff for Norm Maleng for 17 years and was responsible for the management and operation of the Prosecuting Attorney's Office including budget, human resources, technology, legislative and policy matters. The Prosecuting Attorney's Office employs more than 210 attorneys, 230 staff, and has a budget of over \$55 million.

Dan was born and raised in south King County and attended Highline High School. He graduated from the UW undergraduate school (Political Science and Journalism) and the UW Law School where he met his wife, Linda, a corporate lawyer.

They live in Normandy Park with their two children, ages 20 and 16. Dan's hobbies include hiking, running, traveling with his family, and his rock band, "The Approximations," where he plays bass and sings.

### **APPROVAL OF MEETING MINUTES**

***Commissioner Lucas made a motion to approve the meeting minutes of September 12, 2012. Commissioner Newlin seconded the motion. The motion passed unanimously.***

### **CHAIR'S REPORT**

***Jeff Myers, Commission Chair***

#### **Finalize Executive Director's Work Plan**

The Commissioners worked very closely with the Executive Director to develop a draft work plan.

Subjects of the work plan include: improve communication both internally and externally; improve training curriculum; maintain and improve facilities; clarify and improve effectiveness of agency, staff, and leadership; improve management of budget and finance functions; operations; competencies; training and development needs/opportunities; and organizational support.

The Commissioners went through the work plan and added a timeframe to each subject area.

The work plan will begin January 1, 2013, and an evaluation of the work plan will be conducted at the end of the year.

## EXECUTIVE DIRECTOR'S REPORT

*Sue Rahr, Executive Director*

### Strategic Plan Update

**Director Rahr** stated that the components of the Strategic Plan are the same for the Work Plan. The WSCJTC has a Strategic Plan unfortunately there was a disconnection between the Commissioners' intent and the staff's product.

Director Rahr has made the decision to start over rewriting the Strategic Plan rather than rework it. Many of the due dates have passed and need to be updated. The current Strategic Plan is very lengthy and difficult to understand. For the new Strategic Plan, the Director took the notes from the October 2011 Commissioner Workshop and developed core components. The future Strategic Plan will be put into a more formal format with an introduction and description of roles and responsibilities. The Strategic Plan is the employees' road map; employee satisfaction is based on knowing the job and that the job was accomplished.

The final Strategic Plan will go before the Commissioners in March 2013.

### Reserve/Provisional Officers

**Director Rahr**, after attending several meetings where this topic was discussed, does not have a clear understanding of where chiefs and sheriffs stand with this issue. In a meeting format, the consensus is that certification for reserve officers is a good idea; however, outside a meeting format the consensus is that it would create a huge hardship for agencies.

During tough economic times, law enforcement agencies rely on reserve officers to fill gaps in employment.

If we move in the direction of certifying reserve officers, it is the Director's belief that it will be extremely resource and labor intensive. The WSCJTC does not have an accurate number of reserve officers in the state, as there is no system in place to identify or track reserve officers. Director Rahr asked for the Commissioners' guidance with this issue.

**Commissioner Lucas** stated that this topic appears to go hand in hand with the WSCJTC's regional training initiative. Clark County Sheriff's Office puts on a reserve academy approximately once each year where 12 agencies have up to 30 participants. Developing a regional cadre and connecting it to reserve certification might be the answer.

**Director Rahr** stated it is much beyond a training issue; it is keeping track of who is a reserve officer. If the WSCJTC moves in the direction of Reserve Officer Certification, she believes the standards will be considerably higher and it will be very challenging for chiefs and sheriffs to maintain the standards.

**Ms. Jones** stated that there is no legislative mandate for agencies to report the employment of reserve officers to the WSCJTC. The WSCJTC can ask agencies to report this information, and some do, but they are not currently required to do so. In addition, since there is no requirement of reporting, there is no way for the WSCJTC to know if agencies are in compliance with the RCW pertaining to the psych, poly, and background.

**Commissioner Newlin** recommended creating an ad hoc committee to explore this topic.

**Ms. Jones** stated that it has been discovered that there are reserve officers currently working full-time in the state of Washington. When this is discovered a letter citing the WACs and RCWs is sent to the agency head. Certification of reserve officers would correct that problem, as certification gives the WSCJTC more leverage. There are reserve officers working full-time and jumping from agency to agency, which creates a concern of officer safety. A reserve officer can be on the street with no training, and the WSCJTC is unaware.

**Commissioner Wells** asked the three following questions:

1. What is the difference between a commissioned officer and a reserve officer?
2. Would she, as a citizen, be able to determine if a cop on the street is a reserve officer or a fully trained, commissioned officer?
3. Is there any data collected, by departments or the WSCJTC, about complaints on reserve and/or commissioned officers?

**AAG Meyn** stated that a reserve officer has the same authority on the street as a fully commissioned peace officer; however, they cannot work full-time. The law states that a reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

**The Chair** stated that reserve officers can only serve their jurisdiction; not statewide like peace officers. He stated that there are a few exceptions such as hot pursuit, etc. A lot of agencies have discontinued the use of reserve officers because of liability, training, and insurance issues.

**Ms. Jones** shared that the fully-commissioned, certified peace officers attend a 720-hour academy. Reserve peace officers attend a Reserve Academy anywhere from 240 to 330 hours.

**Commissioner Wells** asked Commissioner Lucas if his reserve officers are regularly scheduled or if they are called in as subs when needed.

**Commissioner Lucas** stated that his reserve officers serve primarily at community functions and emergencies. The Clark County Sheriff's Office keeps track of their training as they do with everyone else, and they attend training once each month.

**The Vice Chair** reminded the Commissioners that this topic has been discussed several times over the past several years by WASPC and the WSCJTC. At one time, one of the solutions was to look at legislation of other states in regard to how they distinguish and use part-time police officers and reserve officers.

It was discovered that in many states part-time officers were certified peace officers and worked less than 40 hours, and reserve officers could only work under the direct supervision of a fully-commissioned, general authority officer. There was a lot of

resistance from stakeholders, but the committee should look at how other states handle the use of reserve officers.

Ad-hoc Committee: Commissioner Elfo (Chair), Commissioner Lucas, Commissioner Wells, and Tisha Jones.

**Commissioner Batiste** recommended getting WASPC involved.

**Ms. Jones** stated that the Board on Law Enforcement Training Standards and Education (BLETSE), which was abolished in 2010, created the foundation for this Committee. She has the information and will share it with the new Ad-hoc Committee.

#### **Staff Introduction: Leanna Bidinger**

Leanna Bidinger will serve as the Statewide Regional Training Coordinator for the WSCJTC.

She began her career with the WSCJTC in September 2005. She worked for what was then called the Quality, Standards, and Technology (QST) Division and it is now the Advanced Training Division. Prior to her employment with the WSCJTC, she worked nine years with United Airlines in their payroll division.

She has an Associate's Degree in Information Processing and a Bachelor's Degree in Management and Business Administration.

She lives in Graham, has a husband, and two sons (six and eight years old).

Leanna shows exceptional skills in organization, outreach, and customer service; therefore, she was selected to take on this challenge and be stakeholders' go to person for training in Washington State.

#### **BAC Datamaster Class**

The State is switching to the new BAC machines. A few months ago, Director Rahr received an inquiry from a stakeholder about the poor state of the WSCJTC's BAC machines. The WSCJTC is conducting training with old machines. To purchase the new machines, the WSCJTC would need \$100,000 or more.

**The Director** has talked with WSP's Lt. Sharpe about the issue. Lt. Sharpe informed Director Rahr that the state currently needs 300 of the new machines and currently only has 80. Once the 300 machines have been supplied, additional machines will be available for training.

The question will be can the WSCJTC continue to provide BAC training for Basic Law Enforcement Academy recruits with the current machines?

**Commissioner Batiste** stated his staff is currently testing the new machines, and they are distributing the machines to various counties across the state.

The main difference between the old and new machines is that they are going from liquid to gas. Dr. Cooper has worked on the WAC rule changes, so the WSP is ready to go.

### 24-Hour Training Mandate Audit

This is an area where the WSCJTC had to take a budget cut. Before Leanna took over as the Statewide Regional Training Coordinator there were four regional training managers who conducted audits to ensure all agencies complied with the 24-hour training mandate. The audits were inconsistent and each regional training manager had a different process for conducting the audit. The previous auditing method was not a good use of employee time.

With the new process, agency heads will sign a declaration affirming that they have completed a self-audit of their agency's training records and that all of their peace officers have met the 24-hour mandate. The idea was discussed at WASPC, and WSCJTC received only positive feedback.

If a declaration is not received from an agency then an audit will be conducted by Ms. Bidingier. In addition, each year ten agencies will be selected randomly and audited. A letter has been sent to all stakeholders explaining the new process.

**The Chair** added that the WSCJTC will send agencies a compliance letter that can be used for accreditation purposes, if needed.

### Learning Management System (LMS) Update

The WSCJTC has over 74,000 training records going back to 1908. The challenge is that over the years is that we have transitioned from one information system to another; some transitions have gone well and others have not.

When the WSCJTC gets a request for records, and we make a query into our system, we have no assurance that we have retrieved all of the records we have.

Public Disclosure lawsuits can be a costly if you have a record that you do not produce.

To solve this problem, it would take approximately one dozen people to go through all 74,000 records and re-enter them into the current system. The proposed solution is to narrow down the records we keep, which consist of the core training that the WSCJTC provides. We would no longer keep training conducted by outside groups.

The Director would like the Commissioners to determine a date for the WSCJTC to make this switch. The WSCJTC would then send all other training records to the person's employing agency for retention. After that is done, the WSCJTC LMS would be purged.

**Commissioner Lucas** inquired about the state's record retention schedule.

**Mr. Baxter** stated that the records we currently retain are completely voluntary. He has not found any state record retention pertaining to the training records that we currently keep.

### I-502: The Law that Legalizes the Possession of Marijuana for Adults Age 21 and Older.

**The Director** thanked the staff of the WSCJTC and WSP for preparing valuable information for the passage of I-502. On the day the new law went into effect, the

WSCJTC was able to have valuable information on its website. She thanked the WSP for sharing the information.

## **STAFF REPORTS**

### **Public Hearing: Chapter 139-07 WAC**

#### **Sonja Hirsch, Rules Coordinator**

**The Chair** announced, as per the public hearing notice dated September 20, that previous public hearings on versions of this rule were held on December 14, 2011, and March 14, 2012.

Some public testimony will be taken during today's public hearing. Written and oral testimony has been submitted and entered into the record.

The Chair reaffirmed the speaker ground rules as provided in the notice dated September 20, 2012:

1. Review the Commission Meeting minutes of December 14, 2011, and March 14, 2012, for a summary of public testimony previously provided so that there is no duplication of oral testimony.
2. The only public testimony that will be allowed is that pertaining to polygraph examinations or other truth verification assessments used for pre-employment testing.
3. Speakers will have three minutes to speak. If a speaker needs additional time, they can submit their comments in writing to Sonja Hirsch to be included in the record.
4. If you requested to provide testimony, your time cannot be given to another person.
5. Direct your comments to the Commission and the issues, not the other speakers or staff.

Changes to Chapter 139-07 WAC have been proposed as a result of legislation passed in the form of Substitute House Bill 1567 authorizing the WSCJTC to establish standards for conditions of employment by requiring county, city, and state law enforcement agencies, that make a conditional offer of employment to an applicant as a fully commissioned peace officer or a reserve officer, to administer a background investigation including a check of criminal history, a psychological examination, and a polygraph test or similar assessment to each applicant in compliance with the standards established by the WSCJTC.

**Ms. Hirsch** stated that OTS 4235.7 is the latest version filed with the Code Reviser's Office. This is the same version that came before the Commission in September 2012.

WSCJTC staff is recommending three changes:

1. WAC 139-07-040(1)(b): Include WASIS and make changes to the subsections referenced.

Old language: "Query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Washington Criminal Information Center (WACIC) or the equivalent for each state listed in subsection (1) (b) (v) and (iv) of this section;"

New language: "Query the National Crime Information Center/Interstate Identification Index (NCIC/III) and Washington Criminal Information Center/Washington State Identification System (WACIC/WASIS) or the equivalent for each state listed in subsection (1) (b) (v) and (vi) of this section;"

2. WAC 139-07-040(1)(b): Punctuation change

Old language: "The examiners and analysts, and their techniques for conducting a truth verification assessment, must comply with all applicable federal and state laws..."

New language: "The examiners, analysts, and their techniques for conducting a truth verification assessment must comply with all applicable federal and state laws..."

3. WAC 139-07-040(3): Omit section

Reason: The CVSA tool does not fit EEOC standards, which require a study for verification of validity and acceptance within the scientific community which is independent of any manufacturer's study. In addition, such an independent study is a WSCJTC standard in the proposed WAC.

**Mr. Blair** stated that during the September 2012 Commission Meeting there was a consensus on most of the changes. The exception came in paragraph three on other truth verification assessment where, in fact, the staff had proposed language indicating computer voice stress analysis was another type of truth verification assessment. The question that was asked by Commissioners was: who would verify that the research was done and that there was independent research available that would meet the proposed Equal Employment Opportunity Commission (EEOC) standard.

There is a requirement in the EEOC that says, in part, that publishers of selection procedures have a professional obligation to provide evidence of validity. Users are cautioned that they are in fact responsible for compliance with EEOC guidelines. Mr. Blair was unable to find any independent research that addresses the use of CVSA technology for the purposes of pre-employment of law enforcement or reserve officers. The majority of the research is based strictly upon criminal behavior and soliciting confessions. His concern is that if the WSCJTC says that CVSA is another type of truth verification assessment, and an action were to be filed by an applicant to an agency, would the agency not then turn to the Commission for allowing its use.

**Mr. Blair** asked for WAC 139-074-040(3) be stricken.

**The Vice Chair** referenced Exhibit C and asked who the letter was originally addressed to on February 21, 2012, as that information was redacted.

**Mr. Blair** did not know who the original letter was intended for, as the WSCJTC received the document from Longview Police Chief Jim Duscha.

**The Chair** asked if section three of WAC 139-07-040 is struck, as long as (1)(a) stands on its own could the other devices still be used so long as the independent research study is met?

**Mr. Blair** stated that any truth verification assessment used would have to meet the Employee Polygraph Protection Act, the EEOC, and requirements set forth in WAC 139-07-040(1)(a-b).

If a tool is going to be used, the Commission would have to determine whether or not the tool meets the before mentioned requirements.

He added that he cannot find anything in state legislation that recognizes computer voice stress analysis as a truth verification tool nor does it specifically state that it is a requirement for the certification of a peace officer whereas polygraph is required under RCW.

The question before the Commission is whether or not computer voice stress analysis meets the requirements of WAC 139-07-040(1)(a-b). If not, then agencies cannot use it for pre-employment testing.

**Ms. Hirsch** stated that the WSCJTC staff recommendation is for final action and approval of Chapter 139-07 WAC with the three changes previously announced.

***Commissioner Lucas made a motion to approve for purpose of discussion. Commissioner Newlin seconded the motion.***

Public testimony was provided by the following:

*Bev Reinhold, Polygraph Examiner, Lacey Police Department:* She stated that the Northwest Polygraph Examiner's Association has the same concerns with CVSA as previously addressed by Doug Blair.

CVSA does not meet the EEOC standards for validated testing procedures. The accuracy has not been determined in the use of CVSA for pre-employment screening. Agencies that use CVSA would be held liable, in addition to the WSCJTC for allowing its use, since it is not recognized by the EEOC.

The Northwest Polygraph Examiner's Association believes it would affect the integrity of the law enforcement screening process. Their Association has a vested interest in the quality of law enforcement officers being put through the BLEA since their Association is made up of current and former law enforcement officers.

*Douglas Orr, PhD:* He has been a police officer for 27 years with the Spokane Police Department and is also a part of academia.

The National Institute of Justice contacts him yearly to conduct peer-review research. Validity; are we really measuring what we think we are measuring? Reliability; can it be replicated across different contexts?

He urged the Commissioners to do what they know and what they think. He also urged them to put a lot of thought into the independent research; there is none on CVSA. CVSA has not been validated or replicated across different contexts. Don't put policy over the process. CVSA promises a cheaper instrument and training; don't sacrifice the process for the policy and don't give into the illusion of validity.

*Richard Peregrin, WSP Retired:* When Governor Gregoire signed in this RCW; she put the ball in your court as Commissioners. The Commission is to set the standards and rules for peace officer certification. The RCW specifies that the WSCJTC will establish standards for background investigations, criminal history checks, psychological examinations, and polygraph or similar assessment; you have to set up the rules and establish the criteria for agencies to follow.

As per the EEOC website, there is no assumption of validity. Under no circumstances under 1607.9, will the general reputation of a test selection process, its author or its publisher, or casual reports of its validity be accepted in lieu of evidence of validity.

In addition, specifically ruled out are assumptions of validity, the producer's name, descriptive labels, promotional literature, data bearing on the frequency of the procedures usage, testimonial statements, the credentials of the sellers or users, and other consultant and non-empirical antidotal accounts. Exhibit C is in conflict with the EEOC. CALEA requires a polygraph to be used for pre-employment candidates. If you do not use polygraph, it does not say that CVSA is accepted. Using CVSA is a conflict with federal standards.

*Assistant Chief Glenn Hutchings, Swinomish Tribal Police:* Integrity is the main standard we are testing for in truth verification.

He thinks about his own career as he moved from a university police department in 1975 to the Bellingham Police Department where he spent 31 years; he left with the pride and association with that organization because of its integrity. He then had the opportunity to go to work for the Swinomish Tribal Police Department and many have concerns with and question the selection process going on in Indian country. There have been great strides that have been made in partnership with the WSCJTC in terms of certifying tribal police officers. That certification process mirrors the certification process for city, county, and state law enforcement officers.

The CEO of a police agency has one of the most daunting tasks, which is signing the WSCJTC's Notice of Officer Hire form. That signature signifies that the person signing represents that police agency, and the person signing is bringing credit to that police agency and to the profession. We also know that person signing can also do discredit.

He is proud that he has been able to serve in a profession long enough to see certification and professional standards created and implemented. It would be wrong to adopt a standard that does not have any validity.

*Sheriff Dave Brown, Skamania County:* He was unable to find any information, independent of CVSA, which showed results supported by science. As he understands the legislation, the choice to allow CVSA is that of the WSCJTC.

If the reason behind the use of CVSA, or other truth verification devices, is that it is quicker, cheaper, and requires less training for certified examiners; we will be going in the wrong direction. If that is the case, the BLEA should be reduced back to a three-month academy or even less. We know the outcome of both of those scenarios; poorly trained officers who are not ready to be out on the street and increased litigation over their actions.

It is difficult to find qualified officers in the state of Washington, and it is a serious concern for the sheriffs of Washington State. The chance that a person could work for an agency that uses a truth verification device that may only produce a result equivalent to a coin flip is unacceptable for the state of Washington.

He urged the Commissioners to not move forward with allowing the use of CVSA until independent, valid research can be obtained. The main concern is what the people of the state of Washington deserve, which should be the highest threshold for applicant screening available.

*Chief Jim Duscha, Longview Police Department:* He has both CVSA and polygraph examiners as part of his staff. Cowlitz County Sheriff Mark Nelson also supports CVSA and uses polygraph.

He has heard a lot about training and cost and how CVSA is cheaper. He is the Chief of a small agency with a staff of 57 sworn, and it cost him \$11,000 to train a CVSA examiner.

The quote in Exhibit B, which states, “the CVSA is not capable of lie detection” is merely a small sound bite for polygraph lobbyists to put a negative spin on CVSA. The CVSA detects voice stress and when that is detected the cause is investigated.

The California Highway Patrol conducts 7,500 and the Atlanta Police Department conducts 3,000 pre-employment exams each year using CVSA. This should lead you to believe that CVSA is effective.

To say that CVSA does not work is a slap in the face to a lot of sheriffs and chiefs who have chosen to use it. Eighteen hundred law enforcement agencies nationwide and 6,000 examiners use CVSA.

There are some language changes that were concerning. It seems that there is disparate treatment in the language by stating that polygraph examiners need to be experienced; however, CVSA examiners need to be experts. Officers are not experts when they operate a BAC machine or radar and CVSA is on the same line; they are certified to use the equipment.

Results of CVSA and polygraph cannot solely be used in hiring an applicant; they are tools to assist in the pre-employment investigation. CVSA does not compromise the integrity of the background process; it enhances it. If a chief or sheriff has more confidence in CVSA, then why would they not be allowed to use it? Chiefs and sheriffs should not be limited to the tools they can use when making a critical decision of hiring.

**The Chair** stated that there has been a motion and a second, public testimony has been provided, and called for discussion.

**The Vice Chair** asked the Chair to repeat the standing motion.

**The Chair** stated that the motion for the purpose of discussion was to accept the WAC with the revisions as recommended by staff.

**The Vice Chair** asked if the current changes would eliminate CVSA from the WAC.

**The Chair** confirmed that CVSA would be eliminated by name, but not necessarily by function so long as the CVSA were to meet the standard of an independent research assessment under WAC 139-07-040(1)(a). CVSA will no longer be listed in a separate section like the standards for the polygraph.

**The Vice Chair** asked if CVSA will be revisited during a future meeting should their research validate the reliability.

**AAG Meyn** shared that it is her understanding that when a person enters the BLEA, their agency head signs a declaration saying they have completed the polygraph and psychological examination. She is not sure if the current form says in compliance with the WAC and identifies them.

**Ms. Jones** confirmed that the Notice of Officer Hire currently includes the language confirming compliance with the WAC; however, she was not certain about the language currently on the BLEA forms.

**AAG Meyn** stated that it is the agency's responsibility to verify that they have complied with the standards, so the agency would be determining whether or not they have met WAC 139-07-040(1)(a-b) by signing a declaration.

**Commissioner Wells** asked if WAC 139-07-040(3) is removed, if it precludes agencies from using CVSA if their interpretation of the research is that CVSA does comply with WAC 139-07-040(1)(a-b).

**AAG Meyn** stated that it would not preclude an agency from using CVSA, as they make their own determination on truth verification assessments.

**Commissioner Wells** stated that if the use of CVSA was then challenged by an applicant, it would be the agency's responsibility to defend the use of it; not the WSCJTC.

**AAG Meyn** confirmed that if the CVSA language [WAC 139-07-040(3)] is removed from the Chapter, and an agency chooses to use it, it would be up to the agency to defend the tool they chose to use.

**The Chair** stated that an agency can use any device they see fit, as long as it complies with the requirements set forth in WAC 139-07-040(1).

Questions were asked and confirmed attesting to the fact that an agency can use any type of truth verification assessment tool they see fit as long as it complies with the requirements set forth in WAC 139-07-040(1), the EEOC, and other regulations.

**AAG Meyn** stated that the agency head signs a declaration swearing that the agency has complied with the standards when they present their applicant to the BLEA and for certification.

**Mr. Blair** stated that the question will come up as to whether or not a person is certified. If the CVSA authorizes that officer for the Washington State Peace Officer Certification and there are no standards, or CVSA is not recognized as polygraph is, and it ends up

in court whose responsibility is it to determine whether or not CVSA has met the requirements for certifying a peace officer.

If the WSCJTC certifies a peace officer under CVSA, I would assume they would be responsible for some of the liability. If the WSCJTC does not have a specific standard for the other assessment, he is not certain whether or not the WSCJTC should certify a person who was certified using CVSA.

**Commissioner Lucas** stated that chiefs and sheriffs are signing an affidavit for their applicant attesting that the person has undergone the tests provided in the WAC, and the WSCJTC is relying on that. It should then be up to the employing agency to defend their actions.

**The Chair** stated that the WSCJTC has established criteria under WAC 139-07-040(1), which need to be met whichever type of truth verification assessment tool is used. The WSCJTC should be able to rely on the information provided by the employing agency for each person to make that certification.

**AAG Meyn** stated that by the employing agency completing the form, they are confirming that there is independent research to back the method they chose for truth verification.

**Mr. Blair** stated that the CVSA administrators could always take their tool before the Legislature to have it added to the current statute, and the truth verification tool will be recognized and could be used for certification of peace officers.

**The Chair** called for the question and stated that the motion is to accept the changes to Chapter 139-07 WAC as proposed by staff. ***The motion carried.***

### **Standard Criteria for Waivers**

#### **Tisha Jones, Certification Manager**

*Handouts: General Guidelines for Training Waivers and Washington State CJTC Equivalency Reciprocity Summary*

Before determining a recommendation regarding request for waivers, the following factors are assessed: law enforcement academy training, experience, additional education, and breaks in service.

In regard to law enforcement academy training, the WSCJTC compares their training (e.g. hours and core competencies) to the 720-hour Basic Law Enforcement Academy (BLEA). Some academies are equivalent to the BLEA and some are conditional.

If the academy training is conditional, it is because the core competencies do not mirror that of the BLEA. Some state training academies may touch in areas (20 hours versus 60 hours) that we teach, but do not meet the desired number of hours.

We also look at whether or not they graduated from the academy and worked in a fully commissioned peace officer status; not all states have peace officer certification.

If the core competencies are met, they graduated from a training academy, and they worked as a fully commissioned peace officer, their training is equivalent.

**The Vice Chair** asked if the same criteria are used when considering reserve officers.

**Ms. Jones** stated that the same criteria are used when evaluating reserve officers; however, the core competencies are significantly lower. She does not have a cheat sheet for reserve officers, as not all of the posts regulate reserve officers.

If a peace officer works 30 years in law enforcement, retires for five years, and then returns to law enforcement, the recommendation will most often be for that person to attend the Equivalency Academy. It is unlikely that a person will lose 30 years of law enforcement knowledge after a five year break in service. However, if a peace officer, recently out of the academy, fails to successfully complete the field training officer portion of their training decides to work as a barista for the next five years the recommendation will most often be for that person to attend the full BLEA. It is understood that each case is unique; therefore, all factors will be considered on a case by case basis.

**The Director** stated that although a waiver might be granted, and an officer is allowed to attend the Equivalency Academy, it is a lot of work.

There is an issue when a police chief is requesting a waiver and, therefore, the Commission may want to consider reestablishing the Administrative Exemption option. Depending on the type and size of the department, the responsibilities of that chief are significantly different. This issue comes up as a point of contention frequently.

The Commission took a recess at 11:50 AM.

The Commission reconvened at 12:03 PM.

**The Chair** announced that Commissioner Newlin had to leave for another meeting, but would join the meeting telephonically.

**Reserve Academy Exemption Request: Jacob Milner, Cheney PD**  
**Tisha Jones, Certification Manager**

The Cheney Police Department is requesting an exemption for the newly hired reserve police officer Jacob E. Milner. They request that the Commission grant Mr. Milner permission to fulfill the duties of a reserve officer for the city of Cheney while receiving training specific to the requirements of said exemption to be completed within the specific time frame set forth under WAC 139-03-030.

Mr. Milner graduated from high school, completed a two-year program at Wenatchee Valley Community College earning an AAS degree in general studies, and successfully completed 320 hours of training from Mid Valley Reserve Training Academy sponsored by Marion County (OR) Sheriff's Department.

Commissioner Newlin joined the meeting telephonically at 12:06 PM.

The WSCJTC staff recommendation is to recognize Mr. Milner's training, in Oregon, as equivalent to Washington State's Basic Reserve Academy. The staff recommends that the applicant meet the requirements set forth in RCW 43.101.095(2)(a) and complete the reserve equivalency academy as prescribed in WAC 139-05-825. Per WAC 139-05-

825, he will be allowed to take the final test. A successful score is that of 70 percent or higher.

The employing agency will be provided with the curriculum, they will then update their employee on the laws of Washington State, and the officer will then take the same exam as administered at the end of a full reserve officer academy.

***Commissioner Lucas made a motion to approve the staff recommendations. Commissioner Batiste seconded the motion. The motion carried.***

**Waiver Request: Richard Torres, Clark County Sheriff's Office**

**Tisha Jones, Certification Manager**

The Clark County Sheriff's Office is requesting a waiver to enroll Richard A. Torres in the Basic Law Enforcement Equivalency Academy during Session #0090-3 (January 29, 2013).

Mr. Torres has an approximate six-year break in service after working six years with the Vancouver Police Department (VPD).

During his tenure with VPD, he was certified as a Field Training Officer, SWAT Operator, and Train the Trainer. After his separation, he furthered his education and completed a Master's program and was awarded his MBA.

Mr. Torres has been a reserve officer for the Clark County Sheriff's Office and volunteered as a full capacity equivalent of a full-time officer contributing over 380 hours in 2012. In addition, Clark County Sheriff's Office has a complete training plan in place for Mr. Torres to receive their FTO training program. Mr. Torres has completed all firearms training and qualifications with the WSCJTC prescribed course for 2012, will receive BLEA's Handgun Course (equivalency) on December 13, has been recertified in EVOG Training, and received all WISHA required courses: communications refresher course, defensive tactics, Taser re-certification, and first aid.

**Commissioner Lucas** recused himself from the vote.

The WSCJTC staff recommendation is to approve the waiver and allow the applicant to attend the Equivalency Academy. The staff recommends that the applicant meet the requirements set forth in RCW 43.101.095(2)(a) and complete the equivalency academy as prescribed in WAC 139-05-210.

***Commissioner Elfo made a motion to approve the staff recommendations. Commissioner Batiste seconded the motion. The motion carried unanimously.***

**Waiver Request: David Heenan, Upper Skagit Tribal PD**

**Tisha Jones, Certification Manager**

The Upper Skagit Police Department pursuant to the authority set forth in WACs 139-03-030 and 139-05-210(2)(b) request the Commission to grant David L. Heenan either the waiver as set forth in WAC 139-03-030 or in the alternative for the ability to participate in the equivalency process set forth in WAC 139-05-210(2)(b).

**Ms. Jones** informed the Commission that the Upper Skagit Tribal Police Department is not a certified tribe as far as peace officer standards is concerned; therefore, by Chapter 10.92 RCW, they don't meet that definition of tribal law enforcement officer.

**AAG Meyn** stated that the purpose of a waiver or exemption request is to seek an exemption from a requirement the Commission has. Since the Upper Skagit Tribe has not sought certification, voluntarily through the Commission, or entered into an agreement with the Commission, they have no requirement. Legally, there is nothing to waive.

**Upper Skagit PD Director Hawkins** stated that as a federal entity, they are not subject to the requirements of state law. The request is being submitted to allow one of their officers to obtain state certification which puts the tribe in compliance with federal grant requirements. They are mandated to have certified officers, which can be accomplished by sending them through the BIA or the course offered by the WSCJTC.

Officer Heenan fits squarely within the exception as it relates to his previous history and knowledge of the law. From a procedural prospective, Chapter 10.92 RCW is not a requirement that they have to meet. If the Commission were to deem that necessary, he would request that they take into account the fact that Railroad Officer Czebotar was granted an exception.

**Ms. Jones** stated that is partially correct, as the WSCJTC is the commissioning authority for the railroad police; therefore, she had to meet a different standard than certification. The railroad police are required to do a background, but not a psych or poly. Officer Czebotar is not a certified peace officer.

**Director Hawkins** reiterated that there are grant requirements that the tribe is mandated to meet. If this body were to grant the exemption, it fits the intent of the WAC. There is a council meeting this week; therefore, he could get the tribal law enforcement certification process on the agenda.

**AAG Meyn** cited RCW 43.101.157, which provides the parameters for tribal law enforcement officer certification. The section begins by stating that tribal governments may voluntarily request certification for their police officers. A tribal government requesting certification for their police officers must enter into a written agreement with the Commission.

Prior to that statute, providing for voluntary certification for tribal police officers, for a long time there had been RCW 43.101.230 allowing for training of Indian tribe officers and employees. That RCW has been in effect since 1981 and provides that Indian tribe officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010, as now law or hereafter amended, may be provided training under this chapter if: (a) The tribe is recognized by the federal government, and (b) the tribe pays the Commission the full cost of providing such training. The Upper Skagit Tribe may send their officers to BLEA or the Equivalency and pay for the training, but certification will not be issued.

Chapter 10.92 RCW and RCW 43.101.157 are both voluntary for tribes. With RCW 43.101.157, the tribe would enter into an agreement with the Commission to agree that

the tribe will follow all of the statutes that apply to peace officers and peace officer certification.

**The Chair** stated that once the tribe enters into an agreement with the Commission, the Commission would then determine whether or not his prior training and experience would be accepted given his extensive break in service.

**Commissioner Wells** asked if the Upper Skagit entered into the agreement, would all officers then be subject to certification.

**Ms. Jones** stated that the agency would enter into the agreement; however, the certification belongs to the officer. If the officer that graduates is from a non-recognized tribe, that officer only receives a diploma. The Commission does have an agreement with the Tulalip Tribe; therefore, when their officers graduate from the academy they receive a diploma and Tribal Police Officer Certification.

**Director Hawkins** asked if he put his officers through the Equivalency Academy could the certification be retroactive once the interagency agreement paperwork is completed.

**Commissioner Kelsey** stated that scenario would establish a precedent the Commission may not want.

**The Chair** stated that an answer cannot be given in regard to that scenario.

**The Chair** would like exemptions to be an exception not the rule. The Commission has a standard and there is a reason for the processes in place.

Commissioner Elfo left the meeting at 12:27 PM.

**AAG Meyn** stated that there is no requirement; therefore, no action needs to be taken by the Commission as per the current request.

The WSCJTC staff recommendation is to deny the waiver request, as he does not meet the requirements and has a lengthy break in service.

***Action dies due to lack of motion.***

**Hearing Panel Member Approval**  
**Sonja Hirsch, Hearing Coordinator**

Peter Collins has submitted a request to express his interest in becoming a volunteer panel member for peace officer certification hearings.

Each hearing panel consists of one sheriff, one chief, two line level officers with a minimum of 10-years of experience, and a professor of a college or university.

Dr. Collins has a Bachelor of Science in Sociology degree from University of Oregon, a Master of Arts in Criminal Justice Administration from Boise State University, and a PhD in Criminal Justice from Washington State University.

The WSCJTC staff recommends approval of Dr. Peter Collins as a panel member for peace officer certification hearings.

**Commissioner Batiste made a motion to approve Dr. Peter Collins as a panel member for peace officer certification hearings. Commissioner Lucas seconded the motion. The motion carried unanimously.**

### **BLEA Update**

#### ***John Suessman, BLEA Commander***

*BLEA Classes:* BLEA Class 685 was cancelled in July and there has been a substantial increase in applications for the BLEA. The BLEA was originally budgeted for eight classes in the current fiscal year; however, that number was reduced to six after a budget reduction exercise. As the staff saw the application increase coming, they sought the opportunity to insert a class in January 2013.

The Director granted the BLEA staff permission to hold a seventh class. In fiscal year 2011 five classes were held, in 2012 six classes were held, and in 2013 seven classes will be held. Four classes will be on campus at one time during the last half of January 2013.

*Equivalency Academy:* During the 2011 Calendar Year, 95 people attended the Equivalency Academy and 92 people have attended so far in the current calendar year.

*SIRT Guns:* The BLEA is using new SIRT training guns that do not require the use of ammunition. The new guns are the weight of a glock. When the recruits enter the academy, they are given a “red gun” on day one; a training gun that they keep in their holster throughout drills and practice until they check out their gun at the Range. The Commander provided a demonstration of the new gun, as there is a red laser projected when a person’s finger is on the trigger and a green laser is projected when the trigger is pulled.

The Firearms Program is conducting a study with the new SIRT guns to see if they improve recruit marksmanship. The WSCJTC is applying for a Washington State Labor and Industries Workplace Safety Grant, which has an award of \$120,000, to purchase enough SIRT guns for three to four BLEA classes.

On day one of the academy, recruits will be provided with a safety briefing and then perform an initial qualification course to establish a baseline. Another qualification course will be completed near the end of the academy. The study will span over the next four BLEA classes. The recruits will be allowed to take the guns to the dorms, etc. and practice with them. What they do not know is that gun records the number of times they pull the trigger. This is all part of the research study.

The BLEA staff will receive a report at the end of the fourth class showing whether or not the new SIRT training guns improve marksmanship. This is information that we can then share with academies across the country.

The SIRT guns cost \$250 each.

**Commissioner Batiste** asked that the research study findings be shared with the Washington State Patrol.

*Electronic PAT:* The IT Department built an electronic PAT system for the WSCJTC. Test results are put into the computer from the field, and the Commander is able to see them immediately from his office and contact agency personnel.

*Enrichment Night:* Area law enforcement agencies are providing BLEA recruits, WSCJTC staff, and law enforcement personnel with lessons learned presentations. The Enrichment Nights will be held at 5:30 PM on the first Monday of each month in the WSCJTC Auditorium.

**Director Rahr** stated that the BLEA encourages recruits to do extra physical fitness; however, she would also like recruits to do extra intellectual fitness.

*EVOG Update:* In June, the Commissioners asked the BLEA Commander to do additional research; therefore, he followed a BLEA class through the entire week at EVOG training. It was determined that some things need to be added to the program: night driving, talking on the radio while following another vehicle, multi-tasking, radio/siren/lights while driving at high speeds, and clearing intersections in emergency mode. A pilot will soon be conducted.

### **Basic Law Enforcement Academy Job Task Analysis Update**

#### ***Steve Lettic, Advanced Training Unit Manager***

The WSCJTC is conducting a job task analysis to determine what recruits need and what the BLEA is missing. A lot of data has been gathered from around the state and a survey was sent out to recent BLEA graduates (last five years). Not many responses were received from the survey; therefore, it was refined and resent. Mr. Lettic asked for the Commissioners' help in getting their officers/deputies to complete the survey. The survey will be out for another month and then a survey will be sent to chiefs and sheriffs around the state. Once that is finished, curriculum updates will begin.

Roger Cook, Curriculum Designer, came to the WSCJTC after retiring from the Washington State Patrol. He taught for the WSCJTC in the past and is a great fit in the curriculum development arena.

**The Chair** asked if the Equivalency Academy is still under evaluation.

**Mr. Lettic** stated that the WSCJTC has scaled back on some of the problem areas; however, there are the same complaints that people are having a difficult time juggling the job with the course work. The WSCJTC is exploring other options.

### **Corrections Update**

#### ***Pam Clark, Commander***

It has been the vision of the Director for there to be more collaboration between the BLEA and Corrections, so that became their goal. With that, the Corrections Division has moved into the first floor of the Olympic Building, so both basic academies are under the same roof. Starting in January, a Corrections Division TAC Officer will co-TAC a BLEA class and vice versa. A pilot will be conducted for six months and then recommendations will be made to Director Rahr.

The goal is to eliminate the common stereotypes of corrections and police officers; the hope is to begin this at the academy level.

**Chief For a Day Update**  
**Sonja Hirsch, Coordinator**

On Thursday, August 16, the WSCJTC hosted its Chief For a Day event. Twenty-seven children with life threatening or chronic illnesses were honored as chiefs and sheriffs for the day. The day began with a police motorcade from CenturyLink Field to the WSCJTC, they were sworn in as chiefs and sheriffs, had lunch, and participated in outside demonstrations/presentations.

Through fundraisers and donations, the WSCJTC received approximately \$16,000. This is by far the most money raised for a single event. The CFAD account currently has a balance of \$3,500, so gift cards will be sent to some of the families to assist with the holidays. In addition to the money raised by the WSCJTC, each agency had to raise a minimum of \$1,000 for their chief/sheriff and their family. The next event will be held in August 2014.

A slideshow of the event can be viewed by visiting <http://www.youtube.com/watch?v=fVuhvihhsi8>.

**The Director** stated that the event is a thing to behold to watch the organizational skills, passion, and dedication that Sonja has put into this. Rachele, Tisha, and other WSCJTC staff have done a tremendous amount to help, but at the end of the day Sonja's shoulders carry the huge event. You look at the kids and the families and what she has built over the years is something she can be very proud of.

**NEW BUSINESS**

The 2013 Meeting Schedule was provided to Commissioners.

1. March 13 at 1 PM: WASPC Building located at 3060 Willamette Drive NE, Lacey
2. June 12 at 10 AM: WSCJTC in Burien
3. September 11 at 10 AM: WSCJTC in Burien
4. December 11 at 10 AM: WSCJTC in Burien

***The meeting was adjourned at 12:52 PM.***

<b>Next Meeting: March 13, 2013, at 1 PM</b>
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Written by:	_____	_____
	Sonja Hirsch, Executive Assistant	Date
Reviewed by:	_____	_____
	Susan L. Rahr, Executive Director	Date
Approved by:	_____	_____
	Chief Jeff Myers, Commission Chair	Date