



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

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**COMMISSION MEETING**

Wednesday, December 14, 2011  
10 AM

**COMMISSION MEMBERS PRESENT:**

Jeff Myers (Chair), Chief, Hoquiam Police Department  
Anne Kirkpatrick, Chief, Spokane Police Department  
Bernard Warner, Secretary, Washington State Department of Corrections (by phone)  
Darell Stidham, Deputy, Spokane County Sheriff's Office (by phone)  
John Batiste, Chief, Washington State Patrol  
Joshua Kelsey, Officer, Lynnwood Police Department  
Julie Anderson, Auditor, Pierce County  
Ned Newlin, Chief of Corrections, Kitsap County (by phone)  
Rob McKenna, Attorney General, Washington State  
Thomas Metzger, Prosecuting Attorney, Pend Oreille County  
William Boyce, Citizen at Large

**WSCJTC STAFF PRESENT:**

Debbie Mealy, Deputy Director  
Brian Elliott, Manager, Financial Services  
Greg Baxter, Manager, Human Resources  
Joel Gavino, Manager, Information Technology  
John Suessman, Commander, Basic Law Enforcement Academy  
Lee Brandt, Regional Training Manager (North Central Region)  
Sonja Hirsch, Executive Assistant  
Steve Lettic, Assistant Director  
Tisha Ehret, Manager, Peace Officer Certification  
Tony Anderman, Manager, Advanced Training  
Wesley Anderson, Manager, Facilities

**GUESTS PRESENT:**

Bev Reinhold, Detective, Lacey Police Department  
Dick Reed, Assistant Chief, Seattle Police Department  
Doug Blair, Investigator, Peace Officer Certification  
Jean E. Meyn, Assistant Attorney General, Attorney General's Office  
Keith Barnes, Chief Criminal Investigator, Pierce Co. Prosecutor's Office  
Matt Haney, Chief, Colville Tribal Police Department  
Mike Teeter, Lieutenant, Seattle Police Department  
Sue Rahr, Sheriff, King County Sheriff's Office  
Terry Ball, Secretary/Treasurer, N.W. Polygraph Examiner's Association

The Chair called the meeting to order at 10:02 AM with a quorum present. Sonja Hirsch conducted roll call of the Commissioners, Deputy Director Mealy conducted roll call of the WSCJTC staff, and self-introductions of guests followed.

### **APPROVAL OF MEETING MINUTES**

***Commissioner Anderson made a motion to approve the meeting minutes of September 14, October 12, October 25, and November 14, 2011. Commissioner Batiste seconded the motion. The motion passed unanimously.***

### **Commissioner Farewells**

***Jeff Myers, Commission Chair***

**Commissioner Kirkpatrick** was appointed to the Commission on November 8, 2002, by then Governor Gary Locke. She was reappointed for an additional term by Governor Gregoire on April 27, 2006. Her current term was scheduled to expire in June 2012; however, she has resigned pending her upcoming retirement.

**Commissioner Rahr** was appointed to the Commission on January 27, 2011, by Governor Gregoire. Her current term was expected to expire in June 2012, as she was appointed to fill the remainder of Sheriff Thayer's term when he left to pursue a new career as Washington's Eastern District U.S. Marshal. She has resigned from her position to avoid any appearance of conflict as she applies for the position of WSCJTC Executive Director.

**Commissioner Boyce** was appointed to the Commission on August 21, 2002, by then Governor Locke to fill the remainder of Attorney Rufus McKee's term. He was reappointed for a second term by Governor Locke on May 9, 2003, and then a third term by Governor Gregoire on June 16, 2009. His current term was scheduled to expire in June 2015; however, he was informed he had to resign due to his new position on the Kent City Council.

All three Commissioners were presented with a plaque.

### **STAFF REPORTS**

#### **Waiver Request: Thomas Maxfield (CCSO)**

##### **Steve Lettic, Assistant Director**

Sheriff Lucas of the Clark County Sheriff's Office (CCSO) sent a request on November 22, 2011, for Thomas A. Maxfield to attend the Basic Law Enforcement Equivalency Academy rather than the 720-hour Basic Law Enforcement Academy after a break in service of more than five years.

Mr. Maxfield resigned from the CCSO on December 15, 2005, and, therefore, has had a 72-month break in service.

The CCSO has been proactive after hiring Mr. Maxfield on November 14, 2011, as they have provided him with the following training: handgun, EVOC, WISHA required courses, communications refresher, defensive tactics, Taser re-certification, and first aid. Prior to leaving the CCSO in 2005, he had approximately 1,437.5 hours of training.

The WSCJTC's recommendation is to allow Mr. Maxfield to attend the Basic Law Enforcement Equivalency Academy.

***Commissioner Batiste made a motion to approve Clark County's request for Mr. Thomas Maxfield to attend the Basic Law Enforcement Equivalency Academy. Commissioner Anderson seconded the motion. The motion passed unanimously.***

**WAC Rule Review: Chapter 139-07 WAC**

**Sonja Hirsch, Executive Assistant**

As per SHB 1567, the WSCJTC is to establish standards for the conditions of employment for the position of a certified law enforcement officer or a reserve law enforcement officer to include background investigation consisting of a check of criminal history, a psychological examination, and a polygraph or similar assessment as administered by a county, city, or state law enforcement agency.

There are concerns with the vagueness of the language in WAC 139-07-050 and a comment received stated that the computer voice stress analysis test is similar to the flipping of a coin. A packet containing comments and studies against the computer voice stress analysis was provided to attendees in addition to lawsuits that have resulted for its use.

WSCJTC staff's recommendation is to approve the language as written.

Commissioner McKenna joined the meeting at 10:18 AM.

**Mr. Jim Wygant**, polygraph examiner and member of the NW Polygraph Examiner's Association, testified against WAC 139-07-050 on behalf of the Association's 100 plus polygraph examiners in the state of Washington; most of whom are connected with law enforcement.

Concerns:

1. CVSA is seriously misrepresented by the primary marketer, which is National Institute of Truth Verification (NITV). On NITV's website they refer to CVSA as being used by federal agencies as well as US military special operations and intelligence units, which is not true.

Because of unsanctioned use of CVSA, the Department of Defense issued a reminder in 2008 that, "The use of CVSA is strictly prohibited under all circumstances with no exceptions." This ban remains in effect.

2. The NITV website refers to two research studies. There is three-to-four decades of research on CVSA much of which was funded by the federal government.
  - a. The studies have all concluded that results are a chance determination.

Mr. Wygant went over the results of several studies.

In regard to civil liability, there have been several cases just in the past year that demonstrate the risks that are incurred by the use of CVSA. He referenced the coerced false confession case of Michael Crowe in California, the case of Alex Bostick and the murders of Pat and Evelyn DePalma in Florida, and another case in Richland County, Ohio.

In conclusion, there is no question that CVSA is a good interrogation tool in the sense that it will cause people to admit things that they might not admit otherwise. The problem arises when people using the tool start to believe the results. For pre-employment screening, it means that half of the decisions made by CVSA are likely to be wrong. Agencies are going to disqualify good candidates and fail to discover concealed information of unacceptable candidates.

The Northwest Polygraph Examiner's Association is opposed to the language in WAC 139-07-050 (OTS 4235.3). It does not matter who the computer voice stress analysts are certified by; the process does not work.

**The Chair** added that RCW 43.101.095 requires the WSCJTC to set some sort of standards per the language passed by the Legislature in SHB 1567.

**Mr. Wygant** stated that in the coming years, there will be other acceptable ways to determine whether someone is telling the truth or not; however, the hope is that they will have to adhere to the same standards as those set for the polygraph.

**Mr. Blair** stated that in 2005, the Legislature passed a bill that made the polygraph operation a part of a requirement for peace officer certification thus it became a part of the pre-employment for peace officers. A number of agencies used CVSA at that time of the legislation. At the time the legislation was passed polygraph examiners disapproved of CVSA unless it was conducted by them. Therefore, the WSCJTC allowed the use of CVSA for pre-employment testing if it was performed by a certified polygraph examiner.

The only other "similar assessment" currently being used in Washington State is CVSA. The polygraph examiners proposed language that states that an examination of an applicant by "other similar assessments" must be conducted using an assessment technique and instrument that has been proven valid and reliable by independent research studies other than the manufacturer. Doug questioned how the WSCJTC does that, because if the Commission sets the standard then the Commission must do the research to determine what the independent and reliable studies are. He inquired about how the information will be gathered, kept, and updated. He stated that he would propose the first paragraph of the proposed language of the polygraph examiners be incorporated into WAC 139-07-010 so it would apply to both polygraph and similar assessments.

The requirements and standards in the chapter, for the polygraph examiners and examination, were set by the American Polygraph Association's suggested pre-employment standards for law enforcement.

**Mr. Wygant** stated that he doesn't know of any polygraph examiners who perform CVSA exams. In addition, the business of identifying research is fairly simple, because the research is generally published in peer-review journals. All of CVSA's claims come from the manufacturer.

**Assistant Chief Dick Reed** suggested a change to WAC 139-07-020(2)(e). From Seattle Police Department's experience in background investigations, they have experienced challenges with getting in touch with all personal references. Some personal references cannot be located. Same goes for employers, as some businesses

no longer exist or the employers are unreachable. The suggested language would be to contact a minimum of three personal references and a minimum of five employers.

**Commissioner Kirkpatrick** stated that she would have a challenge with five employers simply because an applicant may be 21 or 22 years old with no previous work history.

**Mr. Blair** suggested that the language read a reasonable number of employers.

Public testimony was closed.

**Commissioner Anderson** inquired about the driving force behind the December 14 adoption date and whether or not changes could be made to the language.

**Ms. Hirsch** stated that changes could be made to the language; however, they would have to be made fairly quickly to be ready in time for the next meeting on March 14.

**Mr. Blair** confirmed that CVSA was not specifically mentioned in the bill passed by the Legislature.

***Commissioner Anderson made a motion for the Commission to direct the staff to revise Chapter 139-07 WAC in response to the testimony received. Commissioner Boyce seconded the motion. The motion passed unanimously.***

## **CHAIR'S REPORT**

***Jeff Myers, Commission Chair***

### **Commissioner Workshop Briefing**

The Commissioners laid down some strategic goals/performance expectations for the Commission, and they plan to view the work of the WSCJTC from 30,000 foot. The Commission has some direction, goals, and projects to move forward on; therefore, the Strategic Plan will help implement ideas and direction that came from the workshop.

Commissioner Boyce left the meeting at 10:53 AM.

It is important for Commissioners to talk to stakeholders and legislators and take an active role in the business of what we are tasked to do.

### **Commissioner Vacancies**

The Commission now has three vacancies: a chief, a sheriff, and a citizen at large. The chief and sheriff positions are usually filled by the Washington Association of Sheriffs and Police Chiefs (WASPC), so they will forward names to the Governor's Office.

### **Proposed 2012 Meeting Schedule**

Commission Meetings will be held on the following dates in 2012:

- Wednesday, March 14
- Wednesday, June 13
- Wednesday, September 12
- Wednesday, December 12

The Chair would like Commissioners to allow up to three hours for each meeting depending on the amount of business.

## **EXECUTIVE DIRECTOR'S REPORT**

***Debbie Mealy, Interim Executive Director***

### **WASPC**

WSCJTC staff attended the WASPC Conference a couple of weeks ago in Chelan, and there were a lot of discussions and concerns around the budget; the Basic Law Enforcement Academy costs that will be shared, what that would look like, and how the WSCJTC will handle it; and the Equivalency Academy.

In regard to the Equivalency Academy, staff has been meeting with stakeholders to ask questions and find out whether or not it is working. Four roundtables have been held throughout the state to talk to training managers, chiefs, sheriffs, and others. The biggest concern discovered is the number of hours required to complete the course work.

There is a new Equivalency Academy Academic Performance Policy that outlines academic performance and written examinations.

**The Chair** added that the Equivalency Academy was switched to online as a result of complaints from agencies about having to pay overtime while their staff attended the two-week academy at the WSCJTC.

**Interim Director Mealy** stated that stakeholders have expressed their desire to keep the equivalency academy online; however, more structure is needed in the beginning of the academy in regard to instructor feedback.

**Assistant Director Lettic** informed the Commission that a researcher recently sat through one of the courses and found the course to be very time consuming. The researcher will write a paper with his findings. Mr. Lettic stated that the number of hours required are more intensive than what was originally thought. The WSCJTC staff will be looking into this concern. The online Equivalency Academy is approximately two years old, so it is time to review the program.

**Interim Director Mealy** stated that if a student fails the Equivalency Academy they will then have to attend the Basic Law Enforcement Academy, as a person cannot re-attend the Equivalency Academy.

**Assistant Director Lettic** and Commander Suessman have been researching written assessments to determine where students are academically for placement since it is a rigorous course. It was discovered that academies in other states have their students take a compass type test. A test of this sort would not be used to weed out students, but to identify student needs.

**Interim Director Mealy** said this would help the WSCJTC and employing agency in identifying problem areas, which could then be addressed early in the course (e.g. provide a tutor).

**Chief Haney** had two officers go through the online Equivalency Academy and pass, and then sent through two more through who did not pass. Some of the officers' issues were with grammar and spelling, as they are tribal members and grew up on the reservation. He went on to state that they do not speak or write the same as he does,

but their grammar and use of the English language is more than adequate for doing police work. He stated that the academy needs to have standards, but an allowance should be made for people of other cultures and backgrounds. This new standard means they can never be police officers and his only option is to fire both officers.

His officers are cross-commissioned by both Ferry County and Okanogan County; therefore, they need to be certified as tribal law enforcement officers by the WSCJTC.

The Chief had two issues, which was the fact that the two officers were not allowed to retest and the second problem was cultural considerations. Both officers passed the final exam, but did not pass the written work.

**Interim Director Mealy** stated that when looking at standards it is important to recognize that once they are certified as a tribal law enforcement officer they can then become certified as a peace officer should they lateral to a city or county law enforcement agency.

The two officers now have the option to attend the Basic Law Enforcement Academy since they failed the Equivalency Academy.

Students will be graded on spelling, grammar, writing, and reading. It is just more intensive in the Equivalency Academy because it is strictly online.

**Chief Haney** stated that his officers were already vetted somewhere else, so he informed his officers that they would be tested on Washington State case law and procedures; not grammar and spelling.

**Assistant Director Lettic** stated that the two officers were already on their way from Eastern Washington, so they allowed them to take the final test. Given their performance in the course, it was not expected that they would pass; however, both did pass. The WSCJTC will not certify the two officers, because they did not fulfill the requirements of passing all of the course work.

The two students started a prior Equivalency Academy and were then allowed to withdraw because they were not performing. They then re-attended the Equivalency Academy and both failed the written portion of the course.

**Interim Director Mealy** stated that one of the roundtables consisted of tribal chiefs who were adamant that they did not want the standards lowered for their recruits.

**Assistant Director Lettic** stated that once he is made aware of a student having problems, the student's agency is notified. He also added that the chief, sheriff, or training personnel can log in and monitor how their student is performing as they go through the academy.

**The Chair** stated that he did not want the discussion to turn into a debate. He informed Chief Haney that he could appeal the WSCJTC staff's decision to the Commission per WAC 139-05-935 and 940.

**Chief Haney** added that he would like to see a review done in regard to the objectiveness of the testing/grading and implement many of the changes discussed.

Commissioner Warner left the meeting at 11:10 AM.

### **Budget/Legislative Agenda**

An ad hoc group was formed to handle the legislative proposal under HB 2134. Chiefs, sheriffs, and other law enforcement supporters testified against the bill.

The Senate and Governor's budgets have been released. Of the ten percent reduction ideas put forward by the WSCJTC, the Governor has approved a portion of them as efficiencies in the BLEA. Therefore, the Governor has those cost saving reductions plus the 50 percent cost share in her budget. The Senate put through just the ten percent reduction items into their budget.

The 50 percent cost share issue will be discussed during the regular legislative session, which begins in January 2012.

The WSCJTC has already made the adjustments to accommodate the ten percent reduction cost savings recognized by the Governor's Office. A plan is in place to make the adjustments work.

Almost all other state academies are funded by tickets, and that is how the BLEA used to be funded.

**Sheriff Rahr** stated that she has talked to several legislators in regard to HB 2134, and what is resonating most effectively is that the State is collecting a fee for a specific purpose and diverting it for a different purpose. The State wants to get out of funding local responsibilities. If that is the case, law enforcement should get to keep all of the ticket money.

**The Chair** stated that approximately \$92 million is brought in through ticket revenue and the portion that the WSCJTC operates on is approximately \$4 million.

Commissioner McKenna left the meeting at 11:31 AM and there was no longer a quorum.

A fact sheet with created, with the help of WASPC and AWC, which will be emailed to the Commissioners.

### **Combined Fund Drive Results**

The Combined Fund Drive has come to an end, and the agency did very well.

The WSCJTC partnered with the WSP on the development and sales of a cookbook and food fight. The WSCJTC made over \$400 in one hour during the food fight. Monies from the cookbook sales will go to the Washington State Law Enforcement Memorial Foundation.

The BLEA did a peanut butter drive for Northwest Harvest and collected over 36,000 ounces/1,756 jars of peanut butter.

The Facilities Division did a book sale and donated over \$500 to the elderly.



In total, the WSCJTC raised \$5,622 in 2011.

### **Customer Service Survey**

An agency Customer Service Survey has been developed, and will be launched after the holidays, to get feedback on how we are doing and how we can improve.

**The Chair** stated that a survey was something that was identified at the Commissioners' Workshop as a method of gaining customer feedback. This survey was specifically for recruit graduates to gain timely feedback from the agency heads and first-line supervisors.

### **BLEA Memo Project Research**

**Assistant Director Lettic** stated that as each recruit graduates, they submit a memo on their experience at the WSCJTC and the BLEA.

Staff has been researching these responses for over a year and recently compiled the statistics for evaluations from February 7, 2007, to January 14, 2011 (45 BLEA classes). There were 1,336 BLEA graduates during that time period and memos were received from 929 of those graduates.

The study shows that recruits are graduating with more confidence with the problem-based learning method versus the traditional method. The results of the study will be published soon.

### **Strategic Plan—Overview**

**Interim Director Mealy** stated that staff is in the process of developing the goals and objectives; however, staff members do not want to move forward until they receive input from the Commissioners. A draft of the Strategic Plan was provided to the Commissioners.

## **STAFF REPORTS**

### **Strategic Plan**

#### ***Tony Anderman, Advanced Training Division Manager***

From the WSCJTC staff's Strategic Planning Workshop staff wanted to capture, from the SWOT analysis, behavioral, structural, technological, and operational issues, concerns, or kudos. From those came the five set goals, and the plan was developed around the SWOT analysis.

**The Chair** stated that Commissioners had not had a chance to review the draft plan.

**Assistant Director Lettic** stated that once input from Commissioners is received, the plan will be reviewed by the managers next week and have it implemented by the first of the year.

Staff and Commissioners briefly went through the plan, and Commissioners clarified questions of staff.

**Commissioner Anderson** stated that a legislative plan should be tied to the Strategic Plan. The Director, once a year, should submit a proposal to the Commissioners to review and establish legislative priorities. This way the WSCJTC will have a roadmap of legislative priorities for years to come.

**Assistant Director Lettic** stated that staff is currently working on a depreciation schedule for the replacement of office furniture and electronics, vehicles, carpeting, and more.

**Commissioner Anderson** said that she would like to see a more defined role in Commissioners in shaping policy in addition to roles of the professional staff and Commissioners.

Although the Director's evaluation does not need to be made part of the Strategic Plan, it does need to be anchored to a goal or objective.

**The Chair** stated that a lot of purchases and commitments were made previously that the Commission was not made aware of and not comfortable with; therefore, there needs to be a clear delineation of authority.

The Commission wants to be made aware of purchases or commitments that may require a change in policy or cause the WSCJTC to move in a different direction.

The Commission would also like a list of budget items; therefore, if a cut needs to be made, the WSCJTC can identify exactly which programs, services, or positions will be cut.

**Interim Director Mealy** informed the Commissioners that a proposal of year end spending wishes will be presented to them in March.

Commissioner Batiste left the meeting at 12:03 PM.

**Mr. Anderman** informed the Chair that the WSCJTC staff is awaiting the Plan for leadership and guidance.

**Interim Director Mealy** stated that the Strategic Plan has been a work in progress for six months, and staff needs to see the final product.

Input from the Commissioners, on the draft, should be submitted to Ms. Hirsch by Tuesday, December 20.

#### **Executive Director Search Update**

##### ***Greg Baxter, Human Resources Manager***

The job announcement was posted on November 15, 2011, to various websites and sent to WSCJTC staff and through list serves. Mr. Baxter began receiving application packets the following day through December 13. The application deadline was December 12 at 4 PM. There are a total of 12 timely applications.

Five of the 12 applicants are from out of state and six of the seven Washington applicants have law enforcement or corrections experience.

All applicants' information will be sent to the Selection Committee for review. The identification of the candidates will remain confidential under state rules.

**The Chair** stated that the Committee will need to meet to set criteria and select the top candidates. The meeting will be announced as an open, public meeting. The final interviews will be conducted by the full Commission during a special meeting.

**Commissioner Anderson** voiced her concern about the meeting being open to the public.

**The Chair** will consult with AAG Williams about the meeting not being open to the public due to Commissioner concerns. He will then work with Ms. Hirsch and Mr. Baxter to set a meeting date.

**Mr. Baxter** clarified that during the previous selection process, he received written permission from each candidate to make their identity public knowledge. This process is different, and the candidate identity will remain confidential throughout the process.

**Commissioner Anderson** stated that she would like a writing sample as part of the process, as communication is a high priority. For the Executive Director to be able to communicate complex ideas in a simple, understandable form is very important, which needs to be tested in a written questionnaire.

## **NEW BUSINESS**

### **WSBA Treatise on "How to Sue Cops"**

#### ***Commissioner Newlin***

A document from the Washington State Bar Association's (WSBA) Leadership Institute titled Police and Your Community in regard to what people need to know to challenge actions and change policy in Washington State was provided to the Commissioners.

The WSBA has removed all traces of the document from their website.

### **Public Disclosure**

#### ***AAG Meyn***

Official business conducted by Commissioners for the WSCJTC, to include emails, are public records. In the past Commissioners were advised to, at a minimum, create a folder (if using a personal computer) for WSCJTC only material. This will prevent a search of your entire hard drive.

**The Chair** announced that Greg Baxter handles all public record requests.

## **OLD BUSINESS**

Nothing to report.

***The meeting was adjourned at 12:29 PM.***

**Next Meeting: March 14, 2012, at 1 PM**

Written by:

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Sonja Hirsch, Executive Assistant

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Date

Reviewed by:

\_\_\_\_\_  
Debbie Mealy, Interim Executive Director

\_\_\_\_\_  
Date

Approved by:

\_\_\_\_\_  
Chief Jeff Myers, Commission Chair

\_\_\_\_\_  
Date