



WASHINGTON STATE
CRIMINAL JUSTICE TRAINING COMMISSION
19010 1ST AVENUE SOUTH, BURIEN, WA 98148

COMMISSION MEETING

Wednesday, December 10, 2008
10 AM

COMMISSION MEMBERS PRESENT:

Anne Kirkpatrick, Chief, Spokane Police Department
Craig Thayer (Chair), Sheriff, Stevens County Sheriff's Office
Eldon Vail, Secretary, Department of Corrections
Gil Kerlikowske, Chief, Seattle Police Department
Mike Johnston (Vice Chair), Sergeant, Bellingham Police Department
Shon Small, Detective, Benton County Sheriff's Office
Steve Thompson, Director, Snohomish County Corrections
Thomas Metzger, Prosecuting Attorney, Pend Oreille County
William Elfo, Sheriff, Whatcom County Sheriff's Office

WSCJTC STAFF PRESENT:

Al Isaac, Manager, Professional Development Division (PDD)
Bob Bragg, Defensive Tactics Manager, Basic Law Enforcement Academy
Brandon Rogel, Program Manager, Corrections Division
Brian Elliott, Manager, Financial Division
Debbie Mealy, Deputy Director
Doug Blair, Deputy Director of Operations and Certification Manager
Greg Baxter, Manager, Human Resources
Jean E. Meyn, Assistant Attorney General, Attorney General's Office
Joel Gavino, Manager, Information Technology
Michael D. Parsons, Executive Director
Patti Toth, Regional Training Manager (NW Region), PDD
Rex Caldwell, Commander, Basic Law Enforcement Academy
Sonja Hirsch, Confidential Secretary
Steve Lettic, Manager, Organizational Development and Standards Division
Sue Hubbard, Program Manager, Corrections Division
Tony Anderman, Regional Training Manager (NE Region), PDD
Wesley Anderson, Manager, Facilities Division

GUESTS PRESENT:

Michael D. Brasfield, Sheriff (Jefferson County), BLETSE Chair
Mike Wait, BCTSE Vice Chair

INTRODUCTION

The Chair called the meeting to order at 10:01 AM with a quorum present. Self-introductions followed.

APPROVAL OF MEETING MINUTES

Commissioner Thompson suggested a change be made on page 12 under Pend Oreille County Waiver Request for Wayne Brigante. The minutes read, "He is an older gentleman and participated..." The minutes will be changed to read, "He is a gentleman and participated..." Commissioner Thompson stated the discussion had nothing to do with the gentleman's age or gender, it was about physical limitations.

Commissioner Thompson made a motion to approve the meeting minutes of September 10, 2008, to include the suggested language change. Commissioner Kerlikowske seconded the motion. The motion carried unanimously.

COMMISSIONER FAREWELL

Michael D. Parsons, Executive Director

The Director presented Director Steve Thompson with a plaque for his service as a Commissioner from 2007-2008.

BOARD VACANCIES/APPOINTMENTS

Michael D. Parsons, Executive Director

The following individual has been nominated to serve on the Board on Corrections Training, Standards, and Education (BCTSE):

- ◆ Associate Superintendent Margaret Gilbert, Washington Corrections Center for Women

Commissioner Small made a motion to appoint Associate Superintendent Gilbert to the BCTSE. Commissioner Kerlikowske seconded the motion. The motion carried unanimously.

TRAINING EXTENSION/VARIANCE REQUEST

Captain Rex Caldwell, BLEA Commander

Commander Caldwell referred to a letter submitted by Sheriff Humphreys dated December 4, 2008.

Recruit Matthew Stroe was in BLEA Class 621, which started in November 2007. Mr. Stroe was injured during defensive tactics training on January 8, 2008, and saw his doctor the following day. Due to the injury to his knee, he left the academy on February 25, 2008, which was approximately three weeks before his class would graduate. Mr. Stroe had surgery in April and was given a six-month checkup date. He returned for his checkup in October 2008 and was told he would have to undergo more surgery in January 2009.

Mr. Stroe's employing agency submitted a letter requesting a training requirement extension/variance. Due to Mr. Stroe's scheduled surgery, he would not be able to return to training until after April 2009.

The BLEA has now changed its curriculum to Problem Based Learning (PBL) curriculum. Only three classes remain on campus that are studying the traditional curriculum, and the last class will graduate in February 2009 which is ahead of Mr. Stroe's medical release date.

The WSCJTC staff has concerns with inserting a traditional curriculum student into a PBL curriculum class, which could be detrimental to his success as a candidate, a deputy, and an employee of Walla Walla County. The WSCJTC staff recommends that Mr. Stroe be required to reenter the BLEA as a new student after he is medically cleared and can successfully complete the PAT.

The Director stated this same issue will arise again as there are approximately five other recruits temporarily out of the academy due to injury.

The Director quickly introduced Kirkland Police Captain Rex Caldwell, who is the new Commander of the BLEA.

The Commander stated the recruits who are currently out due to injury left the academy anywhere between their third and twelfth week. Most students who leave due to injury are only out for six to twelve weeks and then return to training.

Deputy Director Mealy stated Mr. Stroe will be out of the academy and away from training and the learning environment for well over a year before he is medically released for training, which seems to be the first in the history of the BLEA. The fear of bringing him back is that he will not be successful. If he is not successful, it will appear as though it is due to the new curriculum rather than the length of time he was out of the academy.

Commissioner Kerlikowske asked if there is a legal requirement the Commission needs to pass on the extension. He went on to state the WSCJTC has really good staff and that the staff should be able to make the assessment to see where recruits are in regard to training. He would rather the subject matter experts and training staff make the decision. Then, if the agency head has an issue with the staff's decision, it could be brought before the Commission.

Deputy Director Mealy said that is the case in this situation. The staff told the sheriff no, so it is being brought before the Commission.

Commissioner Kerlikowske made a motion to support the WSCJTC staff to make the assessment for injured recruits returning to academy training. Commissioner Kirkpatrick seconded the motion. The motion carried unanimously.

EXECUTIVE DIRECTOR'S REPORT

Michael D. Parsons, Executive Director

Staffing Changes

Tony Anderman was asked to assist the Corrections Division with preparing a Strategic Plan to help them determine where they need to go and how to get there. In the discussion of his Strategic Plan, it was decided to split the juvenile and adult academies. Sue Hubbard will now oversee the juvenile academies and Brandon Rogel will oversee

the adult academies. The constituent and customer base of those two academies are different, so it makes sense to have separate managers.

Beginning January 1, 2009, Doug Blair will no longer be Deputy Director and will again serve as the Certification Manager; former BLEA Commander Debbie Mealy will assume the position of Deputy Director; and Leo Poort, due to budget issues, will no longer work for the WSCJTC.

The Director generally selects and invites two WSCJTC staff to each meeting and introduces them to the Commissioners; therefore, the following employees were introduced:

Patti Toth

Patti has served as a Program Manager with the WSCJTC since December 1999.

Ms. Toth is an expert on state-of-the-art child forensic interviewing and is a frequent presenter at trainings and conferences throughout the United States as well as in other countries. Most recently, she was chosen to present two workshops at the International Congress on Child Abuse and Neglect highlighting the WSCJTC's work in both the child interviewing and child fatality investigation areas. She was also part of the interdisciplinary team of experts that developed OJJDP's Child Abuse & Exploitation Team Investigative Process course and regularly instructs and facilitates on the topic of multidisciplinary team investigations. In October 2008, she was presented with the J. Pat Finley Child Protection Lifetime Achievement Award.

Ms. Toth is a Washington State native and attended college and law school at the University of Washington. She started her career in 1980 as a prosecutor in Kitsap County followed by a stint in the Snohomish County Prosecutor's Office. She then served eight years as Director of the National Center for Prosecution of Child Abuse in Alexandria, VA. Ms. Toth is actively involved with the International Society for the Prevention of Child Abuse and Neglect (ISPCAN - serving on its Executive Council in the 1990s) and with the American Professional Society on the Abuse of Children (APSAC – serving as its President in 1994 and currently managing their week-long Child Forensic Interview Clinic). She also worked as a federal trial prosecutor in the Child Exploitation Section of the U.S. Department of Justice in the late 1990s. Being homesick for the Pacific Northwest, she moved home, settled in Port Angeles, and came to work for the WSCJTC.

Tony Anderman

Tony has a great sense of humor and is very sincere, passionate, and enthusiastic. Tony is well versed in leadership and team building with more than 15 years of management and training experience. He consistently makes an impact on his audiences through his expertise in leadership and customer service excellence. Tony designs and delivers numerous leadership, career development, management, and executive training programs for the state of Washington. Tony served as the National Institute of Correction's Western Regional Training Coordinator. He has worked with managers and executives from law enforcement and corrections throughout the states of Washington, Oregon, Montana, Idaho, Alaska, Colorado, California, and even in Canada. He facilitates mandated leadership training for over six hundred law enforcement and corrections supervisors, managers, and executives annually. He has managed the state of Washington's Corrections Academies; and, as a former Master Defensive Tactics Instructor, he coordinated the defensive tactics for the Corrections

Academies. Prior to joining the corrections field, he served in the United States Marines.

He has a great family with three children ages 14, 12, and seven. Tony enjoys playing percussion and listening to jazz.

Tony received a Bachelor of Science degree in Adult Education and Instructional Systems design and a Master of Science degree in Education and Leadership Development from Southern Illinois University Carbondale.

Physical Ability Testing (PAT) for Corrections Academy Students

In March 2007, Secretary Eldon Vail asked for an exemption for the Department of Corrections to be excluded from the PAT requirements. The Commission debated and discussed this issue and granted a one-year waiver.

The Director thought the WSCJTC had a solution with the Oregon PAT (ORPAT), so some trials were conducted, but they did not go well. If the WSCJTC had implemented the ORPAT statewide, there would have been more failures than with the current PAT.

The Director received a letter from the Juvenile Court Administrators (JCA) requesting to modify the number of pushups from 15 to 10 as the WSCJTC looks at a job task analysis and what to do with the PAT. In addition, the Board on Corrections Training, Standards, and Education (BCTSE) made the same request for the Corrections Officers Academy (COA).

Mr. Baxter stated the WSCJTC had terrific cooperation from the COA and, therefore, tested over 100 students who had already passed the existing PAT. Mr. Baxter reiterated that the ORPAT was designed for law enforcement academy admissions, which has been validated to and based upon test results from people going into law enforcement academies. The minimum passing score to get into an Oregon law enforcement academy is completion of the ORPAT in five and a half minutes. Based on the testing of the 100 corrections students, 55 percent of the students would have failed the ORPAT. Some students, excluding the time requirement, were unable to complete the test because of the 80-pound push/pull machine component. Handouts of the 100-student ORPAT study were distributed to the Commissioners.

The Director stated a new test specific to corrections officers has been discovered, which is used in Canada. Bob Bragg presented the proposal via PowerPoint.

Mr. Bragg stated the WSCJTC is trying to ensure full and active participation at the academy so students can get through the defensive tactics training without injury. The current PAT was initiated in 2000 with the expansion of the academy and the testing was developed based on 121 corrections academy students and 80 juvenile security workers. The test is effective in terms of increasing the participation and reducing the injuries within our training and doesn't have a substantial disparity by sex. This test is not meant to be used for job task simulation or a representation of the critical job functions; it should not be used as a hiring test.

The WSCJTC is now looking at the Canadian's Corrections Officer Physical Ability Test (COPAT). The test was designed based on the infrequent, but critical tasks that people have to do on the job. By survey, supervisors indicated what kinds of things their

corrections officers need to do: run and respond to calls, push open and close doors, run up and down stairs, move tables, and so on. The COPAT was established in 1985 after sampling 4000 people and was revalidated in 1995.

The ORPAT was not based on the data from corrections officers, and the quality and quantity of the tasks may not be representative of what corrections officers do. The current PAT is not one that is meant to be job specific and doesn't represent the tasks per se. Although it may represent some of the underlying physical requirements, it has not been validated.

The Director stated the new test will be created with the cooperation of those who work for the DOC and in jails. The norm will then be established and validated on incumbents that currently do the job.

Commissioner Elfo asked if we could run into the issue of testing those who have been on the job for 15 or 20 years and their fitness level has declined, therefore, lowering the bar.

Mr. Baxter said that is the issue of doing a job task analysis of incumbent corrections officers. From the 2300 that work in jails and 3700 that work for the DOC those are the folks that will be tested. With a stratified sample of a reasonable age range and both sexes, we will see how fit those people are to do the critical tasks. The bar will not be lowered; the bar will be determined. The first steps; however, will be to talk to managers and supervisors of jails and prisons to determine the critical incidents establishing an advisory committee, designing a questionnaire, and then doing the study by running people through the test. The test will be established by testing eight percent of the state's 6000 corrections officers.

Commissioner Thompson stated nobody will be tested unless they volunteer; therefore, you will get a self-selected group that can probably do 15 pushups. You will not get the people that can't as they won't volunteer nor would the employers be able to require them to participate. The results will not give the actual baseline; however, it will give a baseline of the sample of people that subject themselves to the test.

Commissioner Vail stated he is interested in the test results. He disagrees with an earlier statement made about the current PAT that based on research done by the DOC; it does have a disproportionate affect on hiring women within the DOC. The DOC appreciates the Commission granting the one-year waiver as it has worked in terms of what the DOC needed it to do. Twenty-five percent of the DOC's new hires within the last six months have been women. Prior to that time, it was approximately 10 percent.

Commissioner Elfo asked if there has been a challenge to the current PAT.

The Director stated to date there has not been a challenge to the current PAT. We would like to validate the test on those who are currently doing the functions of a corrections officer. It will have to be a random sampling.

Commissioner Elfo asked if the process is being driven by potential lawsuits and challenges or is it being driven by the inability to hire people to do the job.

The Director stated he believes it was initially due to the DOC's frustration with not being able to hire people, especially women.

Mr. Wait asked the costs associated with buying the equipment to do the COPAT.

Mr. Bragg said it is unknown at this time as the events of the test have not yet been determined.

The Director said the WSCJTC, if the test was implemented, could look at having testing sites throughout the state.

Commissioner Thompson informed the Director that he needs to go into the process of test validation knowing that the WSCJTC will not be able to require people, on a random basis, to participate. Everyone could be encouraged to participate, but only those that know they won't do well will not do the testing.

Commissioner Kirkpatrick stated that historically employers have not been able to use the physical fitness test they use for hiring to be able to deal with an officer who has been on the workforce for 20 years and can no longer meet the physical fitness conditions. The PAT can only be used for incentives; not for discipline. Why is there an argument of the PAT test being job related when agencies legally cannot use it later to deal with a potential disability or fitness for duty concern? She always understood the PAT to be academy specific not job related since it can't be used later.

Ms. Meyn stated that she has not yet researched this issue; however, she too understands the purpose of the PAT to avoid the liability of injury in training. She is unclear as to how it transfers over into the employment realm later.

Commissioner Kirkpatrick asked what we are using the PAT for. Is it academy based or is it job performance.

Commissioner Vail stated the DOC trains their staff well and they not only complete defensive tactics during the academy, but on an annual basis. If they can't complete the defensive tactics, they are separated which he believes is a big physical standard as it is directly job related.

He stated that some lawyers who are involved with the DOC believe they would be in a better position if the PAT was connected to the job and not the standards the WSCJTC needs for safe training.

The Director said the WSCJTC is training people to work in prisons and jails. The training should be related to the job even though it may not be direct it is implicit that by taking this test you should be able to do the job in a prison or jail at some point and the training should help you to get there. Therefore, although it is not a hiring standard in a jail or prison, it should still be related. It has never been that way, so this is an opportunity.

Commissioner Johnston asked Mr. Baxter to confirm that a survey is being done of DOC and city/county jail employees to determine their specific job tasks.

Mr. Baxter clarified the survey is to determine the critical job tasks. A sample size of 470 allows the WSCJTC with 99 percent confidence that the performance on the test is within a certain identified interval.

Sheriff Brasfield stated that in the past the PAT was established to mitigate and minimize physical injury or to keep up physical training and was not job related. He asked why the COPAT, like the ORPAT, be tested on corrections students first.

Commissioner Elfo asked if the Commission is setting itself up by asking for a legal opinion. He states that if the finding is that the PAT needs to be job related the Commission is somewhat stuck on the course they have to take. In the absence of any legal challenges and the information from Sheriff Brasfield, he would not support it.

Ms. Meyn stated she would like to know the wording of the legal opinion the Commission is seeking. When the Attorney General's Office gives legal opinions, they give option based advice and then assess the risks.

Mr. Wait added the intent of the waiver is to be able to hire more females particularly on the juvenile side. Due to the maturation level and issues of the youth, there is a need for female role models.

Commissioner Kirkpatrick made a motion to seek legal opinion for guidance on the direction of whether the PAT should be only for academy admission or if it should be job related. Commissioner Johnston seconded the motion. The motion carried unanimously.

Prior to the meeting in March, the Commissioners would like Ms. Meyn's legal opinion to provide options for consideration.

The Director informed the Commissioners that the request from the JCA and Corrections Boards to reduce the number of pushups from 15 to 10 needed to be addressed. He asked if the Commission would like to grant a temporary pass until the March meeting.

Commissioner Small stated the Commission is essentially handicapping people who are unable to meet the bar because they don't have enough self motivation to meet the bar.

The Director stated the request includes not only those employed by JCA, but corrections officers attending the Corrections Officers Academy. The Director stated he is not sure the decision should be made today and suggested informing those who made the request that it is a long-term process and the Commission needs more time before making a decision.

Mr. Anderson thinks the Commission should look at testing for flexibility, balance, and leverage rather than strength and endurance.

Commissioner Johnston made a motion not to change the PAT standards for the Juvenile Court Administrators or Corrections Board until a legal opinion has been received from Ms. Meyn. Commissioner Elfo seconded the motion. The motion carried unanimously.

Budget

The Governor's budget will be released the week of December 15. The Director will inform the Commissioners of the budget as soon as it is received.

The Governor has talked about a stimulus package through the capital budget process. For those projects ready to go, like our dormitory, we would be able to start early in the process.

Sheriff Michael D. Brasfield

Sheriff Brasfield will retire in July 2009; therefore, the Director recognized him for his participation on the Board on Law Enforcement Training Standards and Education and hearing panels for Peace Officer Certification.

BOARD ON LAW ENFORCEMENT TRAINING, STANDARDS, & EDUCATION (BLETSE)

Sheriff Michael Brasfield, Board Chair

The Board last met on October 16, 2008, and at the meeting the following issues were discussed:

- Professor Mike Gaffney of Washington State University gave an update on the status of the BLEA longitudinal study.
- Work is being done to compare and contrast current Field Training Officer (FTO) programs and how they will relate to Problem Based Learning.
- The Board welcomes new member Chief Linda Pillo of the Bellevue Police Department.

Sheriff Brasfield voiced his concern in regard to the fact that some issues relating to law enforcement are brought before the Commission before first being reviewed by the Board.

BOARD ON CORRECTIONS TRAINING, STANDARDS & EDUCATION (BCTSE)

Michael Wait, Board Vice Chair

The Board has two new members: Officer Brian Davies of the King Co. Department of Adult and Juvenile Detention and Sergeant Joel Wright of the Monroe Correctional Complex. In addition, the Board currently has one vacancy.

Mr. Wait reported that the Board has had several discussions regarding the PAT.

STAFF REPORTS

Hearing Panel Members

Doug Blair, Deputy Director of Operations

The WSCJTC staff recommended approving the following individual as a panel member for Peace Officer Certification hearings:

Professor:

BELDEN, Tadd: Centralia College

Commissioner Kerlikowske made a motion to accept Professor Tadd Belden as a hearing panel member. Commissioner Thompson seconded the motion. The motion carried unanimously.

2008 Instructor of the Year Presentation

Steve Lettic, ODS Division Manager

Each year the WSCJTC seeks instructors that shine throughout the year which is a struggle due to the various talents and dedication of the instructors.

Deputy Seth Grant, King County Sheriff's Office

Deputy Director Mealy stated that when the BLEA made their nomination this year they were looking for something a little different because of the recent curriculum switch to PBL, which has been a very long process.

The Organizational Development and Standards (ODS) Division sent the BLEA staff a project that needed the touch of a law enforcement professional, which meant getting the instructors' understanding, buy-in, getting them trained, and reworking the curriculum so it was something the instructors felt comfortable using and teaching in the classroom. This was done by Deputy Grant.

Deputy Grant was presented with the 2008 Instructor of the Year plaque.

BLEA TAC Introductions

Commander Rex Caldwell, Basic Law Enforcement Academy

The following officers joined the meeting briefly to be introduced:

Officer Tony Nowacki

Officer Nowacki has been a law enforcement officer for approximately seven years and is a Master Police Officer with the Des Moines Police Department.

Officer Stuart Hoisington

Officer Hoisington has been a law enforcement officer with the Tacoma Police Department for approximately seven years. He is one of the defensive tactics experts and is a graduate of the Washington Police Corps program with a bachelor degree in English.

Range Officer Bill Robnett

Officer Robnett is a law enforcement officer with the Kent Police Department and was formerly a Captain with the Army Special Forces.

Corrections TAC Introductions

Susan Hubbard, Corrections Division

Kenny Anderson

Mr. Anderson is from the Green Hill School and has been hired for a six-month period of time to coordinate the defensive tactics for the COA and JCOA.

Kenny has a Bachelor's degree in Criminal Justice.

