



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

SPECIAL COMMISSION MEETING

Monday, February 9, 2009
3 PM

COMMISSION MEMBERS PRESENT:

Anne Kirkpatrick, Chief, Spokane Police Department
Bill Boyce, Citizen at Large
Craig Thayer (Chair), Sheriff, Stevens County Sheriff's Office
Gil Kerlikowske, Chief, Seattle Police Department
John Batiste, Chief, Washington State Patrol
Mike Johnston (Vice Chair), Sergeant, Bellingham Police Department
Shon Small, Detective, Benton County Sheriff's Office
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
Bob Graham, Central Sound Regional Training Manager, PDD
Brandon Rogel, Program Manager, Corrections Division
Debbie Mealy, Deputy Director
Jean E. Meyn, Assistant Attorney General, Attorney General's Office
Kenny Anderson, TAC Officer, Corrections Division
Michael D. Parsons, Executive Director
Rex Caldwell, Commander, Basic Law Enforcement Academy
Sonja Hirsch, Confidential Secretary
Steve Lettic, Manager, Organizational Development and Standards Division
Wesley Anderson, Manager, Facilities Division

GUESTS PRESENT:

Scott Blonien, Assistant Secretary, Department of Corrections

INTRODUCTION

The Chair called the telephonic meeting to order at 3:05 PM with a quorum present. A roll call was done to identify the Commissioners. Guests and WSCJTC staff were not identified on the record.

PURPOSE

This Special Commission Meeting was called after the Director and the Chair were approached approximately one week ago by Secretary Vail who informed them the DOC was getting ready to introduce legislation that would separate them from the authority of the Washington State Criminal Justice Training Commission (WSCJTC). The basis of the change is that it would save the DOC \$100,000.

Much of this was initiated due to the difficulty with the Physical Ability Test (PAT). One year ago in March, the Commission granted the DOC a waiver from participating in the PAT so they could do the needed hiring specifically for women during that period of time. The end of the one-year waiver is approaching.

The Director, after being contacted by Secretary Vail, emailed the Commissioners expressing his desire to remain neutral on the issue. The Director received several responses stating "No"; therefore, this meeting was scheduled so the Commissioners could inform the WSCJTC staff their desired stance on the DOC's legislation.

The Chair stated the legislation is going forward; therefore, the mission is to give the Director and legislative liaisons direction as to support it, oppose it, or remain neutral.

Mr. Blonien stated that the PAT disenfranchises women from being employed with the DOC as corrections officers. It is clear, according to documentation the WSCJTC has, that the WSCJTC takes the position that the PAT is a way to prevent injuries for individuals participating in the defensive tactics courses. It is stated in several places that the purpose of the PAT is to ensure one was in at least good enough physical condition that they wouldn't injure themselves during the defensive tactics courses.

Since March 2008 when the DOC received the one-year waiver of the PAT requirement from the Commission until October 2008, the percentage of injury was 2.3 percent. Prior to that, when there was a modified PAT, the injury rate was only 1.9 percent. Even though the WSCTJC went from requiring a modified PAT to no PAT, there was only a .4 percent increase in injuries during defensive tactics. In raw numbers, during the original PAT there were two people injured and when there was no PAT only one person was injured. The difference in the percentages is due to the number of participants; therefore, the numbers do not seem to bear out the reasons for the PAT at least as it relates to candidates being employed by the DOC.

In addition, the DOC is involved in some sensitive litigation dealing with inappropriate sexual contact between male corrections officers and female inmates at two facilities. In an effort to remedy the situation, the DOC petitioned the Human Rights Commission, the Department of Personnel, as well as local unions with permission to establish more than 100 positions as female only positions. The permission was granted. If the DOC is forced to continue with the PAT, they will not be able to recruit, train, and hire the number of women necessary to meet that goal.

Over and above the female only positions, a number of women are employed in the male only facilities and it is, therefore, important to have that gender balance even in the male facilities. Women have a sobering and calming effect and it helps the male offenders garner respect for women. Without female corrections officers that opportunity would not be available.

The DOC feels there is no relationship between the PAT and injuries endured by people who participate in defensive tactics courses. It is clear that once the PAT is removed, the DOC is much more successful in recruiting, training, and hiring female corrections officers. In addition, the DOC now has a large number of female only positions that they are required to fill. If they have to adhere to the PAT, they will not be able to accomplish the requirement.

Due to the difficulty of getting the waiver in March 2008, the DOC felt they had no alternative but to seek legislation which would remove them from the preview of the WSCJTC as it relates to their training regimen for corrections officers.

Commissioner Elfo stated he has spoken to other sheriffs during a telephone conference, and they don't understand why one agency is going to be exempt for the requirements that all other agencies are required to abide by. He believes this could cause a "roller coastering" effect from other law enforcement and corrections agencies and questioned the logic that could be provided in granting it.

Mr. Blonien stated maybe the PAT should be looked at for all corrections officers and not just for the DOC. He finds it very problematic that the purpose of the PAT is for people to not injure themselves during defensive tactics courses, but that doesn't seem to be true in relation to the statistics. In addition, the skills and training necessary for a corrections officer in a jail are different than what they need to be in an adult correctional institution. Usually people in jail are there for a shorter period of time and there is less opportunity for a mentorship or role model relationship between the correctional staff and offenders. In the DOC, they have more long-term offenders where there is the greater chance of the corrections officer to serve as a role model for the offenders. Maybe the PAT for corrections officers as a whole should be looked at; however, the DOC feels it takes different skills and different muscles to be a corrections officer for a local jail than it does for the DOC.

Commissioner Batiste asked if there is any data that shows the past failure rate of corrections officers in general across the state, females in particular.

The Director did not know of any such data and it is not an issue that has been brought to the Director's attention.

The Chair stated that last Thursday the Sheriff's Association met, and he brought this issue to their attention and basically polled the sheriffs to see what their opinion was as far as getting guidance. It was unanimous, of those present, that they did not feel it was in the best interest of the WSCJTC, Corrections, or standards for the DOC to withdraw from the purview of the WSCJTC.

Commissioner Kerlikowske stated the Commission is very diverse and not in the position to set standards and manage something as complex as the DOC. Rather than add another hurdle or road block for the DOC, he feels the Director's suggestion of

neutrality would be fine. His position would be to support the legislation as the DOC knows their business and how to run it.

Commissioner Kirkpatrick has a problem with why the WSCJTC should insist on the PAT at this juncture when the numbers don't support the reason for having the PAT. She is an advocate of the PAT, but has problems with the legal analysis. She stands with either neutrality and/or in support.

Commissioner Metzger has difficulty with not being able to make the connection between the PAT and reduced injuries. There is not a sufficient nexus, so he questioned why the WSCJTC is clinging to it if it lacks that connection. He would stand with neutrality at a minimum.

Commissioner Johnston's concern is that to do the specific job tasks, whether it is in a jail or the DOC, the officers should be in some type of physical condition to prevent injury to themselves and others. He said it seems the DOC is not willing to work to find a program that would benefit the safety of their officers.

Mr. Blonien stated the PAT is not a requirement for continued employment within the DOC. He is much more concerned about a sex discrimination lawsuit rather than a lawsuit pertaining to one officer not being in a condition to assist another. He stated that even if the DOC gets rid of the PAT, officers will still need to be fit enough to pass defensive tactics classes. When reading the material the WSCJTC puts out it states officers go through the PAT to lessen injuries during the defensive tactics courses. If there is going to be any liability that is where the liability is going to be, and the DOC is willing to assume that liability. If a person does not pass the defensive tactics courses, they don't pass the core academy.

Commissioner Johnston stated he would think the success rate would be higher if they had to first pass the PAT.

Commissioner Elfo said his main concern is not in regard to the PAT, it is with the inconsistencies of allowing one agency to withdraw from the purview of the Commission. He stated there have been other agencies in rural areas that have asked for exemptions for certain individuals, which the Commission denied. They have the same issues as the DOC in regard to hiring people and having them pass the PAT.

Commissioner Small has spoken to several people within the DOC, to include line level and administration, which have issues with dropping the PAT due to the officers' ability to react.

The Chair asked if there was any more work that could be done on the PAT in the interim to make it more applicable for the DOC's needs.

Mr. Blonien stated the speed the DOC needs to balance the gender does not allow that much time. He stated the Commission has had a year since granting the waiver; however, the DOC seems to be stuck in the same place. He said the DOC would be willing to consider it; however, he is not hopeful it would get done. In the meantime, the DOC cannot live with the PAT.

The Director stated modifications could be made to the PAT, but at this point they would be somewhat arbitrary and capricious. He cannot argue with the DOC's numbers; however, what the WSCJTC does in regard to the Corrections Officers Academy (COA) would probably bear a little difference in terms of the number of people being injured, but he does not have the data.

Commissioner Laughlin was not able to participate in the teleconference; therefore, the Director relayed her comments that she concurred with some of the comments made by Sheriff Elfo in his email.

Commissioner Batiste made a motion for the Commission to take a stance of neutrality on the issue of the PAT. Commissioner Metzger seconded the motion.

Commissioner Elfo asked if the motion was on the neutrality of the PAT or neutrality on the DOC's request to remove itself from the purview of the WSCJTC.

Commissioner Batiste confirmed the neutrality was in respect to the DOC's desire to remove itself from the requirements of the PAT.

Commissioner Johnston stated he understood the bill to read that the DOC will leave the purview of the WSCJTC because of the PAT no matter what decision is made, so it seems that there are two issues.

The Chair stated the Commission needs to give direction to the Director and legislative liaisons as far as testifying for, against, or remaining neutral as the bill moves forward.

He stated there had been a motion and a second and, therefore, called for discussion.

Some discussion was made over the motion and the intent of the bill, which resulted in Commissioner Batiste rephrasing the motion.

Commissioner Batiste rephrased his motion and recommended that the Commission to take a position of neutrality to the DOC's election to remove itself from the Commission centered around the PAT issue. Commissioner Metzger seconded the motion as further clarified. A roll call vote was conducted as follows:

In favor of motion (6):

Commissioner Batiste, Commissioner Metzger, Commissioner Boyce, Commissioner Kerlikowske, Commissioner Kirkpatrick, and Commissioner Thayer.

In opposition of motion (3):

Commissioner Johnston, Commissioner Small, and Commissioner Elfo.

The Chair asked for other comments.

Commissioner Johnston stated there is legislation to remove the Boards (Board on Law Enforcement Training, Standards, and Education and Board on Corrections Training, Standards, and Education) from the WSCJTC and asked if the Commission (referring to the 14 commissioners) would be included with that.

The Director stated the Commission was included; however, it has a regulatory function so the Governor did not do anything with the Commission. The two Boards that were listed would go away in June 2010. This issue just came up this morning, so it has not been discussed.

Ms. Meyn in response to a question posed by the Director stated the Commission can discuss this issue that is not on the special meeting notice; however, the special meeting is limited to the DOC topic. The Boards issue can be discussed, but the Commission cannot take a final disposition.

The Director asked for the direction the Commission would like to take in regard to the removal of the Boards. He believes the WSCJTC should not remain neutral and should oppose the Governor's desire to eliminate the Boards.

Commissioner Batiste suggested contacting Kathleen Brew in the Governor's policy office in regard to the Commission's position on this issue.

Commissioner Elfo asked how much money would be saved if the Boards were eliminated.

The Director stated it would save the WSCJTC approximately \$9,000 per year.

The Director stated if the bill passes regarding removing the DOC from the purview of the WSCJTC, work will need to be done to remove the DOC position from the Commission. In addition, there are members that would need to be removed from the Corrections Board.

Mr. Blonien said they will add the needed language to the DOC proposed legislation.

The teleconference was ended at 3:41 PM.

Next Meeting: March 11, 2009, at 10 AM

Written by: _____
Sonja Hirsch, Confidential Secretary Date

Reviewed by: _____
Michael D. Parsons, Executive Director Date

Approved by: _____
Sheriff Craig Thayer, Commission Chair Date