



COMMONWEALTH of VIRGINIA

Department of Criminal Justice Services

CRIMINAL JUSTICE SERVICES BOARD COMMITTEE ON TRAINING

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MINUTES *December 6, 2012*

A meeting of the Criminal Justice Services Board Committee on Training (COT) convened at 9:05 a.m. on Thursday, December 6, 2012, in House Room D of the General Assembly Building, in Richmond, Virginia.

Members Present:

Chief Richard Clark
Chief Jeffrey Brown
Mr. Ted Byrd
Sergeant Charles J. Condon - late
Mr. Edward M. Macon (*Proxy for the Honorable Karl R. Hade, Executive Secretary, Supreme Court of Virginia*)
Sheriff Charles Jett
Deputy County Executive David Rohrer
Captain Lenmuel S. Terry (*Proxy for Colonel Steve Flaherty, Superintendent, Virginia State Police*)
Mr. Sherman C. Vaughn

Members Not Present:

Mr. Robert L. Bushnell
Ms. Kathy Lassiter (*Proxy for Harold W. Clarke, Director, Department of Corrections*)
Mr. Charles Ciccotti
Mr. Bobby Russell

DCJS Staff Present:

Janice Cosel
Sam Hoffman
Terry Montgomery
Brenda Cordoza
Frank Pitzer
Rick Arrington
Sharon Gray
Neadie Moore
Marie Baugh
Kenny Adcock
Donna Michaelis
Lisa McGee

Others Present:

David Rogers, *Virginia Department of Corrections Academy for Staff Development*
Jan Judy, *Prince William County Criminal Justice Academy*
Mary Kay Wakefield, *Private Security Services Advisory Board*
Jon Cliborne, *Crater Criminal Justice Training Academy*
Martin Alford, *New River Criminal Justice Training Academy*
David Vice, *Rappahannock Regional Criminal Justice Training Academy*
Gary Ladin, *Richmond Police Department*
Barrett Storle, *COX*
Maeline Abbitt, *AT&T*
Paul Ellis, *Private Security Services Board*
Larry Kiefer, *Virginia Beach Sheriff's Office*
Bill O'Toole, *Northern Virginia Criminal Justice Training Academy*
Brian Gough, *Northern Virginia Criminal Justice Training Academy*

Call To Order:

Chief Clark called the meeting to order. The roll was called with eight (8) members present, which indicated a quorum.

Chief Clark noted that the minutes of the last meeting had been e-mailed to the members and asked if there were any other questions or comments regarding the minutes. Mr. Vaughn made a motion to approve the minutes, Mr. Byrd seconded, and the minutes were approved unanimously.

Old Business:

There was no old business.

New Business:

Proposed Regulations Relating to Training Standards for Undercover Investigative Officers

Chairman Clark mentioned that a periodic review of the Proposed Regulations Relating to Training Standards for Undercover Investigative Officers was conducted by the Department. The public comment period ended on Town hall October 15, 2012. Sam Hoffman, Standards, Policy and Homeland Security Manager will provide us with suggested revisions to this regulation.

Mr. Hoffman: Thank you, Mr. Chairman. Members of the Committee, Approximately 25 years ago, our predecessors at DCJS promulgated this regulation. In sum, the regulation defines training standards for undercover police officers who are not certified law enforcement officers. The reason it was promulgated is because the General Assembly passed a law requiring the department to do so. In the past few weeks as part of Governor McDonnell's Regulatory Reform Plan, we have recommended that this section of the code be repealed. In the interim, we are asking for your permission to proceed with changing this regulation, which would indicate they must be a certified law enforcement officer and complete all training other police officers are required to complete.

Mr. Macon: Does this eliminate the use of these undercover police officers? What is the immediate effect?

Sam Hoffman: There is no effect on the use of undercover officers, the change only impacts the training they are required to receive. In practice, law enforcement agencies aren't doing this and training academies aren't providing this training other than in the basic law enforcement training which covers the specialized issues discussed in the undercover training.

Motion to approve made by Sheriff Jett, second by Captain Terry. Motion passed unanimously.

Standardized Field Sobriety Testing Update

Chief Clark introduced Mr. Hoffman, Standards, Policy and Homeland Security Manager of the Division of Law Enforcement to give us the latest update of the standardized field sobriety testing program.

Mr. Hoffman: Thank you, sir. Ordinarily, Barbara Walker who is the SFST coordinator would be here, but she is at another class. Just to give a little background so we have a starting point, this committee extended the deadline for all academies to be teaching the certified standardized field sobriety testing program to January 1, 2014. In conjunction with that, we assumed responsibility for this program from DMV. To run the training program we received funding from the Highway Safety Office, and have subsequently received a competitive grant to continue. With that grant we hired a coordinator, Barbara Walker, and an administrative assistant, Michelle Crowder, and conducted an academy survey to find out where the academies

were in the program. When we started, we knew with certainty that there were 8 senior instructors; defined as an instructor who is certified to teach other standardized field sobriety qualified persons to become an instructor, an elite group of people and small in number. The only number of basic course graduates that we could confirm factually was 105 that were trained in calendar year 2010 by various academies. We really were unsure of the academy status, who was teaching standardized field sobriety testing and where they were in the program. One of the most significant and controversial issues is that there were no instructor standards, although officers may have gone through some kind of instructor course, there was no standard across the Commonwealth to determine when those persons were authorized to teach or what level they were authorized to teach.

To date, we have certified 20 senior instructors; officers that have gone through the basic course, the training course, completed instructor apprenticeships and have gone through a series of evaluations by one of the eight senior instructors to achieve their certification as senior. They are authorized to go out and train others who would like to become trainers. There are another 33 officers who are certified instructors, and can teach in any academy without supervision from a senior instructor or anyone from our staff. There are an additional 52 officers who have completed the instructor training program and we're either waiting for their application to be completed, or their apprenticeship to be completed. It is necessary to conduct a basic SFST course to allow those officers to have an opportunity to complete their apprenticeship and demonstrate their ability to teach the subject. We are very busy collaborating with academies to schedule basic courses to get those instructors in to complete their apprenticeship and keep track of those officers as they progress.

Since March 2012, 195 officers have completed the basic SFST program and we know who the officers are, what department they are from and where they are within the program. Most astounding fact is that 27 academies have at least 1 SFST instructor available, some have more than one. We expect by January 1, 2014, that every academy that needs an instructor (and not all will) will have at least one available.

Our next steps, as a result of internal brainstorming, as to where we need to go with the SFST program assuming we continue to receive funding for personnel, we are going to conduct three additional instructor schools in calendar year 2013, to produce additional instructors for the academies. We also have a goal of coordinating an adequate number of apprenticeships, so that all those who have gone thru the instructor training school can become certified as an instructor, and we want to have at least one senior instructor (certified to train other instructors) in each one of the academies, independent and regional. If we have the resources available, we would like to develop an in-service refresher training that academies will be able to use to refresh those officers, and those who have not gone through the training at all because they did not have the opportunity. Lastly, we would like to conduct more awareness training for judiciary officials and prosecutors in the SFST process, what it means and what it's about.

Sheriff Jett: The training for judiciary and prosecutors, do we know what that is going to look like? Has there been discussion about how that will take place?

Sam Hoffman: We have discussed this subject in two conferences this past year; I can't tell you

conceptually what it will look like, but basically we need to make these two groups aware that these tests are available, they're being taught in the Commonwealth and they're nationally accepted as the standard for determining whether someone is operating a vehicle under the influence.

Sheriff Jett: Would like to suggest that whatever lesson plan is being presented at the Judges and Commonwealth Attorney's conferences might make its way to the academies and even department heads. I know this is an issue in a lot of localities, whether it's the judges or the commonwealth's attorney that may not make the conferences, and get the information, it is important to get them to understand what is being done out on the street.

Sam Hoffman: We will certainly do that.

Public Hearings

Chairman Clarke officially opened the public hearings. We will be holding a public hearing on the Proposed Regulations Relating to Campus Security Officers & Proposed Regulations Relating to Private Security Services.

Proposed Regulations Relating to Campus Security Officers

Chairman Clark called upon Donna Michaelis of the Division of Law Enforcement to provide a review of the Regulations Relating to Campus Security Officers.

Ms. Michaelis: These regulations are in the Proposed Regulatory Stage on Town hall. They have been reviewed and approved by the Attorney General, Department of Planning and Budget, the Secretary of Public Safety and the Governor's Office.

The department received one comment during the proposed stage from the Chief of Hollins University Security Department in reference to the NIMS/ICS requirement. The recommendation requests that the decision of using the NIMS/ICS system be left up to the institution. However, the department does not plan to make any revisions relevant to the suggestion at this time. We are requesting approval to proceed to the final stage of the Administrative Process Act, which is to submit this regulation as a Final regulation.

Proposed Regulations Relating to Private Security Services

Lisa McGee, Regulatory Manager for the Division of Regulatory Affairs will present the final proposal for the amendments to the Regulations Relating to Private Security Services.

Ms. McGee: The purpose of the regulatory action is to establish the licensure, registration and certification requirements for locksmiths and the detector canine industry in accordance with legislative amendments to the Code of Virginia. In addition to establishing new regulations for these industries, the Department conducted an intense comprehensive review of the entire program.

During the regulatory process the Department followed all of the requirements of the Administrative Process Act and applicable Executive Orders from the Governor's Office. This process included conducting an executive review at each stage with the Attorney General's

office, the Department of Planning and Budget, the Secretary of Public Safety and the Governor's office.

The Department first began this process in the summer of 2008. This process can take 18 to 24 months. During the first two years of the process the Department worked directly with the industry to ensure full participation of the public. The Department established ad hoc groups and subcommittees of the Private Security Services Advisory Board (PSSAB). These groups included members of the Advisory board and individuals from the industry that shared their time and expertise. These groups included: Fees Committee, Locksmith Training and Requirements, Detector Canine Training and Requirements, PSSAB Training Subcommittee, whose main focus was on firearms and the Legislative & Regulatory Subcommittee of the PSSAB.

In addition to these groups, to ensure that we could touch as many industry members as possible the Department conducted Regulatory Townhall meetings in each region of the Commonwealth.

In June of 2010, after the closure of the proposed regulations the Department came before the Committee on Training and advised that based on the latest public comment period and results from the Townhall meetings, there would be substantive changes to the proposed regulations and that we wished to provide the industry with an additional opportunity to participate in a 30 day public comment period. The Department was required to submit the newly proposed regulations for executive review. This process, under a new administration took 2 years. During this two year period, the Department took every opportunity to inform the industry of the document which was available on the Townhall website. The Department kept the PSSAB abreast of the status and incorporated curriculum into our compliance agent entry-level and in-service training to ensure they were able to utilize Townhall and view the document so that the industry would be prepared when the Public Comment period opened. In addition, under the leadership of our Director, we began meeting with members of the individual industries. We were able to meet with the electronic security, locksmith and personal protection specialist industries. The 30 day public comment period ended on October 24, 2012 and the department received 80 comments. Based on these comments as well as our interaction with the industry, the Department is requesting adoption of the proposed regulations along with some final amendments.

The Board members have been provided with a copy of the regulations, in a number lined document; the changes were tracked by strikes and underlines. The additional amendments were highlighted in red text. In addition to the text, the Board members were provided with a summary document that outlined the main changes to the regulations and specified the additional amendments by page and line number. *(Please see attachments)*

The Department met with their Advisory Board Legislative and Regulatory Subcommittee last week to discuss the final document and presented these changes to the full Board at the Quarterly Meeting that was held on Monday, December 3, 2012.

In addition to the proposed text, we would like to touch on some of the final amendments that the Department is requesting. A few of the substantial changes include the removal of all references that the Department issue a photo identification card, currently the Code only requires that the Department issue a registration card, at one time the Department was able to ensure the security

of this process by working with DMV, due to costs and hardship to the industry, this process was discontinued and the department has depended on private entities, the schools, to submit pictures of applicants. The Department does not have any control over the identity verification process and is concerned with the risk of providing state issued photo identification without direct verification of identity. This goes above and beyond what is required of the Department by Code. Language has been included into the regulation that does require individuals to produce photo identification along with their registration when requested by the client, law enforcement or the Department.

The Department is requesting to remove the fee increase to the firearm endorsement and leave it at the current \$10.00 fee.

The Department is removing a requirement that instructors attend new regulatory compliance training; we will incorporate the regulatory training into the general instructor development training.

The Department is removing a new requirement for businesses and schools to conduct self-audits, and reinserting a requirement for these entities to maintain a physical address in Virginia where records will be maintained and be made available to the department upon request.

The Department made amendments to the requirements for the credentialing of a Detector Canine Handler Examiner by closing some loopholes that may have allowed for unqualified individuals from obtaining certification and established the standards in which they would conduct an examination for certification of a canine team.

The Department made some amendments to the new Security Officer handgun training to include additional training standards.

The Department made amendments to the new online in-service training program standards for clarity and included a new definition for Learning Management System.

In the proposed regulations, we included a new training standard referenced as the Seven Signs of Terrorism, utilized by the Virginia State Police and are requesting to change the standard to Signs of Terrorism to allow for a broader opportunity for the schools to establish their training curriculum and have recommended that they utilize the Seven Signs of Terrorism during this segment of training.

The Department combined the in-service training requirements for the electronic security registration categories into one electronic security in-service course that will meet the needs of all four categories, thus eliminating duplication in training.

Lastly, we are requesting the elimination of language that allows for an individual to not report a conviction if they are currently appealing the conviction, or the time to appeal is still active.

Other changes were grammatical in nature.

We would like to publicly acknowledge and thanked the current and previous members of the PSSAB as well the members of the industry who worked with the Department to establish a regulatory document that is in the best interest of the public's health, safety and welfare.

On behalf of the Department, respectfully requested the Committees' recommendation to the full Board for adoption of this document in its entirety, which includes the proposed regulations along with the final amendments.

Public Comment

Chairman Clark asked if there was anyone in the audience that would like to address the COT concerning matters within its purview.

Paul Ellis, Chairman, Private Security Services Board: Thank you, Mr. Chairman, members of the board and I would also like to thank the Director and the staff at DCJS. I just want to stress the tremendous amount of effort that has been put into this by the staff and the constituencies represented. We have been working on for several years, while we will continue to move forward, to make more manageable, this is the best result we can have for these regulations as we go forward to rep public safety and streamline the processes for businesses. Just a few highlights that the industry felt was very important, was electronic security had several redundant training pgs, this will help streamline while maintaining a more focused training. Another issue was compliance agent issues; we revised the regulations to maintain the same liability and responsibility under one person, instead of the current five. The firearms requirements were worked on by several committees, and we examined negligent discharge reports to gather information, and made clarification in the regulations for negligent discharge training and judgmental shooting and we felt this was a serious omission. We felt this was an area we needed to include. The Private Security Services Board fully supports these revisions.

Wayne Boggs: I am the president of Richmond Alarm Company, and the immediate past president of the Electronic Security Association. Today I represent my company, and have also been meeting with other members of the industry for the past six months. We appreciate the staff and the director for encouraging the industry to take part in looking at the regulations and making suggestions. We still need to work on the training aspect but for right now, these revisions are accepted by the industry, and we encourage the approval by the Board. Thank you.

Captain Terry: I would like some clarification on the initial detector K certification in reference to the minimum eligibility requirements; can you clarify this language?

Lisa McGee: Due to the requirements of a criminal history check, we have to maintain the minimum age requirement of 18 even though an 18 year old would not be qualified for certification as detector K9.

Chief Brown: I would like to commend Donna Michaelis in her work to develop these standards. I move to approve these recommendations. Second by Sherman Vaughn. Motion passed unanimously.

Sheriff Jett: Four or five years is a long time for anything, but we would like to commend Mr. Ellis and his leadership along with DCJS staff. This is a major milestone, and at this time I would like to make a motion to accept the recommendations. Motion seconded by Captain Terry. Motion passed unanimously.


Next Meeting

Chief Clark advised that the next meeting of the Committee on Training is tentatively scheduled for Thursday, March 14, 2013 pending approval by the Criminal Justice Services Board later this morning.

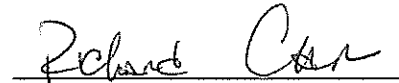
Adjournment

A motion made by Sergeant Condon to adjourn the meeting. It was seconded by Captain Terry and was carried unanimously. The meeting was adjourned at 9:40 a.m.

Respectfully submitted,


Stephanie L. Morton
Recording Secretary

Approved:



The Honorable Richard Clark
Chair

3/14/13
Date

Attachment(s)

6VAC20-40 Regulations Relating to Undercover Investigative Officers
6VAC20-270 Regulations Relating to Campus Security Officers
6VAC20-271 Summary– Final Recommendations & Regulations Relating to Private Security Services s