

**MINNESOTA BOARD OF PEACE OFFICERS
STANDARDS AND TRAINING**

**BOARD MEETING
Post Board Office
Electronic Meeting via Microsoft Teams
December 9, 2022**

Members Present

Kelly McCarthy, Chair
Andrew Evans
Jason Bennett
Jennifer Foster
Jim Yang
Justin Page
Justin Terrell
Liz Richards
Luke Hennen
Nigel Perrote
Pilar Stier
Scott Kent
Shawn Williams
Shelly Schaefer
Tanya Gladney
Troy Wolbersen

Staff Present

Alex Xiong
Andrew Burth
Angie Rohow
Bob Barli
Erik Misselt
Katie Cederstrom
Michael Meehan
Michelle Haggberg
Peggy Strand
Rebecca Gaspard
Robert Skoro
Sarah Zastrow
Shari Mitchell
Tahami Danial

Counsel Present

Christopher Kaisershot, A.G. Office
David Cullen, A.G. Office

Members Absent

Jay DeCoux

Call to Order: Chair McCarthy called the meeting to order on December 9, 2022 at 10:00 am.

Approval of the Agenda: Chair McCarthy asked for a motion to approve the agenda.

- **MOTION:** Mr. Yang made a motion to approve the agenda. Ms. Foster seconded the motion. Agenda was approved via unanimous voice vote.

Approval of the December 1, 2022 Board Meeting Minutes: Chair McCarthy asked for a motion to approve the December 1, 2022 minutes.

- **MOTION:** Mr. Kent made a motion to approve the minutes. Mr. Wolbersen seconded the motion. Minutes were approved via unanimous voice vote.

Rules Update (Rules Coordinator Report):

- **Public Comments 11/30/22 – 12/6/22:** Ms. Gaspard provided a summary of the public comments. She noted the public comment period closed on Tuesday, 12/6/22 at 4:30pm. She advised there were 106 comments received. Majority of the comments were supportive for the provisions of hate groups and provisions for discriminatory conduct. Other comments reiterated issues that the Board has already addressed in the preliminary responses to the comments or post-hearing responses to comments.
- **New Modifications to Draft Rules:** Ms. Gaspard reported the draft is the same from what was approved at the last Board meeting on 12/1/22.
- **Post Rebuttal Response to Comments not Previously Addressed:**
Ms. Gaspard spoke on the following responses to comments:

1. 6700.0670, Subp. 2(B) and 6700.0675, (E) - Exemptions from Full Background Investigations and Psychological Evaluations for Seasonal and Temporary Positions. State Fair Chief Knafla has concerns about the requirements for the background investigations. State Fair has 50 officers all part-time. Once the State Fair begins they can have up to 200 officers. The Chief is suggesting an exemption for part-time seasonal officers so that they do not need to have a full background investigation and a psychological evaluation.

Board response: The additional part-time officers working the fair would meet the definition of “seasonal” if currently employed by another agency. The State Fair agency could forgo the full background check and only complete a criminal history and driving records check, and may choose not to require a psychological evaluation for seasonal positions filled by currently employed officers.

**2. 6700.0700 MINIMUM SELECTION STANDARDS
Subp. 1B - exceptions from new minimum selection standards for students/cadets in the licensing pipeline.**

Concern that instead of an exemption, the new standards should be applied given that applicants affected by a standard could apply for a waiver [rule variance] - 1 comment
(*Communities United Against Police Brutality*)

Board response: The exemptions are part of a proposed rule modification resulting from earlier comments regarding implementation of the proposed rule changes. Minnesota’s Professional Peace Officer Education programs review the minimum selection standards with students as they enroll as a preliminary screening of licensure requirements. In general, law enforcement agencies with pipeline cadet or training programs also prescreen based on the minimum selection requirements. The proposed exemption is a common practice addressing the status of regulated entities adversely affected by changing standards. It is a reasonable and necessary step to address implementation of new rules affecting persons and agencies caught in the midstream of a rule change. The Board notes that students, cadets and trainees, and law enforcement agencies will have invested time and money based on their reliance on current rules.

3. 6700.1600 STANDARDS OF CONDUCT

Concern that Minnesota Statute section 326.8432, subd. 2, which grants authority to the Board to suspend or revoke a license if the licensee has been convicted of a crime, means that the Board does not have authority to otherwise discipline licensees for conduct that could be criminal unless there was a conviction - 1 comment (*LELS/MPPOA*)

Board response: The statute cited by the commentator provides specific authority to revoke or suspend the license of a licensee whose criminal conviction would have barred licensure. The Board finds no support for the commentator's conclusion that the Board may not discipline licensees for conduct which could be criminal in nature but for which no conviction has yet occurred. The first subdivision of the statute (Minnesota Statutes, section 326.8432, Subd. 1(3)) provides specific authority to discipline a licensee for "a violation of the standards of conduct set forth in Minnesota Rules, chapter 6700". Again, the Board relies on the statutory rulemaking authority in Minnesota Statutes, section 626.843, Subd. 1(6) to promulgate rules on the standards of conduct.

Concern that "[...] there is no justification in the SONAR for discipline beyond criminal conviction" - 1 comment (League of Minnesota Cities - LMC).

Board response: The Board asserts the SONAR addressed the need and reasonableness of addressing concerning conduct of officers that did not result in a criminal conviction. LMC's stated agreement with the "goal of addressing conduct without a criminal conviction" suggests that LMC found the goal both needed and reasonable. Regardless, the SONAR represents the Board's affirmation that the proposed rules are both needed and reasonable. SONAR (pg. 28-30).

Chair McCarthy then asked for any questions or discussion before making a motion. There were no questions from the Board.

Chair McCarthy asked for a motion to approve the rebuttal responses to the addition of any responses needed to the True North Legal comment.

- **MOTION:** Mr. Terrell made a motion to approve the rebuttal with any additions of case law responses to the True North letter as Ms. Gaspard sees fit. Mr. Williams seconded the motion. Motion passed via unanimous voice vote.

Chair McCarthy asked Ms. Gaspard to provide an overview of what happens next and a timeline. Ms. Gaspard advised the deadline for the rebuttal responses is Tuesday, 12/13/22 by 4:30 pm. Then the judge has 30 days to provide a report that could have an extension. She spoke about expecting the report sometime around January 13, 2023 when the 30 days is up. If there is an extension then sometime by mid-February 2023. She concluded that then appropriate actions will be taken that are dictated per the report.

Chair McCarthy asked for a motion to move into a closed session for licensure matters that are closed to the public.

- **MOTION:** Mr. Wolbersen made a motion to move into a closed session. Ms. Foster seconded the motion. Motion passed.

Licensure Matters (Closed to Public)

Adjournment:

- **MOTION:** Mr. Yang made a motion to adjourn at 10:48am. Mr. Wolbersen seconded the motion. Motion passed via unanimous voice vote.