

BOARD OF PUBLIC SAFETY

Minutes of Meeting Held December 17, 2003
Forsyth, Georgia

MEMBERS PRESENT:

Mr. Wayne Abernathy
Mr. David "Hal" Averitt
Mr. Charles D. "Bud" Black
Mr. Rooney L. Bowen, III
Chief Louis Dekmar
Mr. Joe Ferrero
Mr. W. H. "Dub" Harper
Mr. Patrick Head
Chief Hubert Smith
Sheriff Cullen Talton
Ms. Lisa Godbey Wood

MEMBERS ABSENT:

Governor Sonny Perdue
Sheriff Bruce Harris
Sheriff Jamil Saba

OTHERS PRESENT:

Mr. Chris Brasher, Georgia Department of Law
Ms. Laura Jones, Board Liaison
Colonel George Ellis, Georgia State Patrol
Lieutenant Colonel Arthur White, Georgia State Patrol
Lieutenant Colonel Kenny Hancock, Georgia State Patrol
Mr. Scott Cown, Georgia State Patrol
Mr. Terry Landers, Georgia State Patrol
Mr. Wayne Yancey, Georgia State Patrol
Ms. Terry Long, Georgia State Patrol
Captain Richard Ashmore, Georgia State Patrol
Captain George Whittaker, Georgia State Patrol
Mr. Gordy Wright, Georgia State Patrol
Retired Major Tommy Tomlinson
Director Vernon Keenan, Georgia Bureau of Investigation
Ms. Chris Ash, Georgia Bureau of Investigation
Mr. Ray Higgins, Georgia Bureau of Investigation
Mr. Mike Fordham, Georgia Bureau of Investigation
Director J. Dale Mann, Georgia Public Safety Training Center
Mr. Richard Guerreiro, Consultant with Georgia Public Safety Training Center
Mr. Johnny Wilson, Georgia Public Safety Training Center
Mr. Lloyd Strickland, Georgia Public Safety Training Center

Chief Hubert Smith called the December Board meeting to order. Mr. Bud Black noted that Major (ret.) Tommy Tomlinson was present at the Board meeting.

Chief Hubert Smith asked Mr. Pat Head, a new Board member, to introduce himself. Mr. Head is the District Attorney in Cobb County, and knows how to plow a mule, how to pick cotton, and how to milk a cow. Mr. Head was welcomed to the Board.

Chief Hubert Smith started the meeting with requesting Colonel George Ellis to present a Resolution to Tommy Tomlinson, who retired in September, 2003. Colonel Ellis read the Resolution, noting that "Foots" Tomlinson started as Trooper Cadet in 1971. Major Tomlinson thanked the Board members for the honor, and, highly recommends retirement.

Chief Hubert Smith requested approval of the Minutes of the November meeting. The motion was made by Mr. Wayne Abernathy, seconded by Mr. Rooney L. Bowen, III, and unanimously voted approval by Board members.

DIRECTORS' REPORTS:

Department of Public Safety/State Patrol

Colonel George Ellis began with reporting on the manpower level. State Patrol has 845 field positions, with 108 trooper vacancies. There are 223 radio operators, with 30 vacancies in those positions. Since July, 2003, there have been 35 vacancies, through either retirement or resignations.

In looking at ways to save money for the Department, Colonel Ellis has submitted a plan to the Merit System in looking to abolish Chief Radio Operator positions. Rather than a chief operator lose a job, the person will step down to fill a vacancy in a post. The chief operators, instead of troop lieutenants, can be placed in the position to inspect radio rooms and provide quality control.

The Department is also looking at a plan to redraw troop lines. Because Governor Perdue has made it clear that he would like as many troopers on the road as possible, Colonel Ellis will look at enlarging the troops and filling positions. Colonel Ellis indicated this is not definite right now; that the Department is just looking at ways to save money.

Colonel Ellis then called on Ms. Terry Long, who described the Department's legislative proposals for 2004. Ms. Long reported several items from a booklet, which had been given to each Board member.

- (1) The first item on the legislative agenda is the Child Highway Safety Act. This is a joint proposal combining initiatives of both Georgia State Patrol and the Governor's Office of Highway Safety.
 - To amend Article 2, Chapter 5 of Title 40 of Official Code of Georgia, prohibiting class D drivers from using cell phones or other portable communications devices while operating a motor vehicle; including, if in violation of safety belt law, denying application for upgrading class D license to class C license;
 - To amend Article 1, Chapter 8 of Title 40 of Official Code of Georgia, requiring seatbelts for minors, under the age of 18, in a 15-passenger van;
 - To amend Chapter 6 of Title 40 of Official Code of Georgia, creating a separate misdemeanor for drivers who have minors, under the age of 14, in the vehicle, while committing serious offenses, i.e., Aggressive Driving, Reckless Driving, Racing, Laying Drag, Fleeing and Eluding;
 - To amend Article 1, Chapter 8 of Title 40 of Official Code of Georgia, providing for points towards license restrictions for failing to restrain children in seatbelts.
- (2) The second item on the legislative agenda is the Administrative License Suspension Hearing system. This bill would permit law enforcement officers to bring a lawyer to the suspension hearing. The Office of State Administrative Hearings is in support of this legislation, as well. Officers statewide are reluctant to appear due to the fact that defense lawyers are using these hearings as discovery methods.
- (3) Mandatory Blood-Alcohol Testing. Legislation will be proposed to require hospitals receiving state funds to make reasonable efforts to draw blood on suspects, when requested by a law enforcement officer in writing. Currently, there is a problem wherein hospitals are refusing, so this bill would mandate the blood draw.
- (4) Applying Window Tint Limitations to Non-Resident Drivers. Officers are concerned about their inability to see the driver of a vehicle; this legislation being requested for the safety of all officers throughout the state.
- (5) Legislation is being proposed for Driving Under Influence of Marijuana. The Department is attempting, along with prosecutors, to have drivers charged with driving under the influence of marijuana.
- (6) Transferring Regulation of Firearm Dealers. Legislation is being proposed to transfer the regulation of firearms dealers to Georgia Department of Revenue. Department of Revenue has the manpower and funding to handle this issue.
- (7) Slick Top Traffic Enforcement. The Department is proposing legislation to rescind the installation of blue lights on top of trooper cars. This is being proposed in order to help cut costs for the Department.

Ms. Long responded to several questions concerning the proposed legislation, and, turned it back over to Colonel Ellis. Colonel Ellis answered questions regarding the SCRT team and the time it takes for the team to complete an investigation report.

Mr. Rooney L. Bowen, III reported that the Public Safety sub-committee met on December 16th to discuss the legislative proposals with Colonel Ellis. Mr. Bowen made a motion to accept the legislative agenda, to authorize Colonel Ellis to go forward with the proposals, and to support it during the coming legislative session. Mr. Wayne Abernathy seconded said motion and the Board members unanimously voted approval.

Georgia Bureau of Investigation

Director Vernon Keenan reported he has discussed with Governor Sonny Perdue's office one piece of legislation. The bill is to request increased penalties on offenders where children have been exposed to toxic chemicals and methamphetamine lab sites. After meeting with the Governor's staff, Governor Perdue has decided to adopt this legislation and present in his package.

Director Keenan gave the Board members positive news concerning Computerized Criminal History (CCH) record system, which is operated by Georgia Crime Information Center. This is the database that houses information on everyone who has been arrested and convicted. This database began in 1972, when GCIC was created. Even though CCH is the backbone of information sharing system, it is outdated, and Director Keenan has found a way to modernize the system. Out of the \$50 million which has been given to the State of Georgia by the U.S. Department of Homeland Security, \$12 million is earmarked for information sharing systems. It is the position of the GBI to request \$9.8 million, out of the \$12 million, for the modernization project. Director Bill Hitchens, Homeland Security, and Director Mike Sherberger, Georgia Emergency Management Agency, took this proposal to the U.S. Department of Homeland Security, and the federal agency agreed that this is an appropriate use of the funds. The Georgia Sheriffs Association, the Chiefs of Police Association, and the District Attorneys Association support the GBI in going forward with this project.

Director Keenan addressed several questions on the project, turning the subject to preparation for G-8 Summit. As far as equipment preparation, the GBI is using part of asset forfeiture funds to purchase 100 tasers. Director Keenan noted that all the agencies are operating on a short timetable, and, many of the critical decisions will be held in abeyance until the overall state plan is completed. Inspector Joe Jackson is detached to Homeland Security to help in the state planning process.

Chief Dekmar requested if Director Keenan had a policy on appointed/elected officials using the GBI as police chauffeurs. Chief Dekmar indicated that this question would be addressed to

Colonel Ellis and to Director Mann. After discussion among Board members, it was agreed that these types of questions would be placed on an agenda for another meeting.

Georgia Public Safety Training Center

Director Dale Mann began his report with information the Board had requested. The Board members are able to access the policy and directives system on the Training Center's web site. Director Mann explained the steps, so the Board members could go in and browse.

In follow-up to the Board's decision to change the eligible range to a 60-mile radius, Director Mann has mailed notices to all agency heads notifying of the change. Director Mann noted that Mr. Terry Proffitt has done an excellent job of putting together a map on the home page of the Training Center.

Under reorganization, Director Mann has been looking at developing new courses and new titles, one of the things being career tracks. By using career tracks, someone will be able to see what classes relate to that particular career, whether it be working traffic or working with juveniles. Director Mann got a positive reception from the Chiefs of Police Association, and, will address this with the Sheriffs Association.

Director Mann noted that he, along with Colonel Ellis and Director Keenan, attended the joint House and Senate Public Safety Committee meeting earlier this month. The Training Center is proposing one piece of legislation, and, that is to change the language in O.C.G.A. § 35-8-8, reflecting peace officer minimal requirements. Director Mann has requested the committees to support legislation that will require a pre-service background investigation be completed on a student.

Mr. Rooney L. Bowen, III made the motion that the Board of Public Safety support this proposal for legislation by the Public Safety Training Center. Ms. Lisa Godbey Wood seconded said motion and the Board members voted approval. Mr. Bowen also suggested that the Board write a letter, to both House Public Safety Committee and the Senate Public Safety and Homeland Security Committee, endorsing the legislation.

Director Mann addressed the issue of use of tasers and use of force. Director Mann and Director Keenan have previously discussed putting together a good training program for officers who are going to use the taser, incorporating the limitations of the use of any kind of force. Director Mann will be going to Mr. Greg Conner as a resource for the Training Center; Mr. Conner having expanded the FLETC use-of-force model into an integrated force management strategy.

As a quick update on G-8 Summit training, the problem right now is that the Training Center does not know how many people will need to be trained. When the Training Center starts scheduling the influx of people for the Summit, the Center will probably have to cancel some

other classes. Mr. Bob Buffington and Mr. Don Sperry are assigned to work on the G-8 Summit and Homeland Security training. Director Mann said that they are doing everything they can to get ready.

It was noted by Mr. Rooney L. Bowen, III that the web site of Department of Public Safety is very informative. If a Board member has not been able to view the site, please contact Major Corky Jewell for assistance.

RULES: Chief Hubert Smith called on Ms. Terry Long, who requested final adoption of Rule 570-23-.04. This rule is an amendment wherein the Department of Public Safety will use a new computerized data system to see who has completed the Alcohol and Drug Awareness Program. The initial adoption was approved on October 8, 2003, by the Board. The Department of Motor Vehicle Safety raised concerns, which were addressed by Department of Public Safety. Mr. Rooney L. Bowen, III made the motion that this rule be approved for final adoption; Mr. Wayne Abernathy seconded said motion, and the Board members voted approval.

DONATIONS: Chief Smith requested donations be presented at this time.

Mr. Terry Landers, Georgia State Patrol, presented the following donations for the Board's approval:

Kustom Signals Pro Laser III Serial No. PL-17985	\$3,595.00	Murray County Commissioner
3 Genesis II Radar Serial No. G25-11399	\$6,720.00	Bryan County Sheriff Clyde Smith
Stalker Dual Radar Unit Serial No. DC083205	\$1,897.00	City of Climax City Council
Two Stalker Dual RADAR Units Serial Nos. 83364 & 83380	\$1,897.00	Miller County Board of Commissioners
Laser Labs Tint Meter Serial No. LL2960032387	\$ 139.00	Murray County Board of Commissioners

Mr. Wayne Abernathy motioned for approval of the donations, Ms. Bud Black seconded said motion, and the Board members unanimously voted approval.

Mr. Richard Guerriero, Georgia Public Safety Training Center, had one donation:

5 Millennium Gas Masks	\$1,045.00	Mr. Jim Chesnut MSA World Headquarters
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Sheriff Cullen Talton made the motion to approve the donation, seconded by Mr. Wayne Abernathy, and the Board members unanimously voted approval.

RESOLUTION:

Mr. Scott Cown, Department of Public Safety, presented a Resolution to the Board for approval. He introduced Ms. Jill Stuckey, Georgia Environmental Facilities Authority, who deals with underground storage tank problems with state agencies, one being Georgia State Patrol.

That the Board of Public Safety authorize the Commissioner of Department of Public Safety to recommend to State Properties Commission to acquire and accept custody of 1.01 acres located at 1416 Dean Forest Road, 1.01 acres at 1422 Dean Forest Road, and the old post property located at 1400 Dean Forest Road, Savannah, Chatham County, Georgia, that will eventually be deeded to Garden City, Georgia.

Ms. Lisa Godbey Wood made the motion to approve the Resolution, seconded by Chief Lou Dekmar, and voted approval by the Board.

Chief Hubert Smith then turned the meeting over to Mr. Chris Brasher, Board Attorney, who took the opportunity to reacquaint the Board members with the Duties and Responsibilities of the Board. Mr. Brasher gave each Board member several documents, pointing out specific areas to the Board members.

The two primary responsibilities of the Board is, first, as an appointing authority of the agencies that the Board oversees; and secondly, as a policy-directing role for the agencies that the Board oversees. There are a myriad of other responsibilities that the Board does, such as, real property exchange issues. This Board was created in the 1970's, along with other boards of similar type, essentially to oversee and to insulate the operation of these departments for what was perceived at the time to be a political climate.

Everybody is familiar with the three primary agencies that report to the Board. Of course, with the Georgia Public Safety Training Center, the method of reporting has changed a little bit. About a decade ago, there was a decision to consolidate the Georgia Police Academy, Georgia Fire Academy, and the Training Center into one entity and all those people would report through the Director of the Public Safety Training Center to the Board. That functionality remains today, even though the statute spells out that those three individuals would serve through one individual, and, that is the Director of the Training Center.

Mr. Brasher next pointed out the By-Laws, a copy of which has been provided to each Board member. There is no statutory provision calling for by-laws for the Board of Public Safety. The By-Laws are a creation by the Board for the Board; reflecting the way in which the Board wants to do business. For example, the By-Laws reflect the reporting system to the Board, the roles of the officers, and, the ability of the officers to serve in the absence of the Chair or the Vice-Chair.

As for the issue of Open Government, Mr. Brasher explained to those who observe the Board and to those who are new to the Board, that he will explain from time to time the issues of open and closed meetings. The Attorney General is charged with enforcement and attaining compliance with the Open Records Act and Open Meetings Act and that is something to take very seriously. By not following the Open Meetings Act, when a regulation or action is adopted, then that action is void.

The document entitled "Selected Statutes On Open Government" deals only with Open Meetings, which is all the Board is involved here. Obviously, the Board deals with open records as well, in that the Board creates the Minutes. Also, after a closed session of the Board, an Affidavit is signed by the presiding officer saying "under penalty of perjury, that this is the only thing we've done in closed session." It is specifically authorized by the Open Meetings Act.

Mr. Brasher responded to a question that committee meetings are subject to Open Meetings Act, according to § 54-2-1. The notice of committee meeting is posted in the usual method.

Mr. Brasher continued his orientation by explaining the role of the Attorney General. Mr. Brasher is seen sitting at the table, but not as a member of the Board. He does not have the authority to participate in votes or count as a quorum. Mr. Brasher is here because the role of the Attorney General in Georgia is to represent the Executive Branch. The Board of Public Safety is a part of the Executive Branch. The Board oversees, as statutorily created in part of the Executive Branch, the operation of three Executive Agencies. Mr. Brasher's responsibility is to represent the Board collectively in its actions and to also represent the three agencies.

Mr. Brasher presented the issue of Ethics. In talking about ethics in government, this deals specifically with the Governor's Executive Order on Ethics. If there are questions as to whether the Executive Order applies to this Board, the Governor's Ethics Officer is Mr. Harold Melton, and, he can be contacted concerning any questions or concerns. O.C.G.A. § 45-10-3 is the Code of Ethics for members of boards, commissions and authorities. It sets out nine different parameters of ethics for people that serve on commissions. Mr. Brasher brought attention to § 45-10-3(8), which states "never engage in other conduct which is unbecoming to a member or which constitutes a breach of public trust." This is generally referred to as the appearance of impropriety issue.

Mr. Brasher brought up another issue, that being liability. One of the primary roles of the Attorney General's office is to represent government entities when sued. To reiterate, the role of the Board is clearly defined by statute, therefore, acting outside of that role can create liability

issues. Acting within the scope of the duties as defined by law, liability is much more diminished; acting outside the role, a board member is subject to liability personally or in an official capacity.

Two other issues were pointed out by Mr. Brasher. One being, involvement in particular incidents by the agencies. By stepping into that realm, the Board member is out of the role as a policy advisor or appointing authority. By stepping into that realm, if something happens, protection is lost against liability, and, perhaps increase the chance of liability for the agency which is supervised. The other issue is employment. The fact is that each of these three agencies has in place a rigid, well-defined, and litigation-tested policy for hiring and promotion.

Mr. Brasher addressed several questions and completed the orientation.

BY-LAWS:

Chief Hubert Smith noted that the Board members had been furnished a copy of the By-Laws and requested a vote on same. Chief Lou Dekmar stated that after reviewing the By-Laws and the statutory duties, he noted that there is not a by-law relating to the comments by Mr. Chris Brasher. Chief Dekmar proposed an amendment to "Article II – Members", by adding a Section 5 - Duties and Responsibilities. Chief Dekmar read his proposal to the Board members, indicating it codifies in the By-Laws the role of the Board members. After round-table discussion, Ms. Lisa Godbey Wood proposed that when the Board votes on the By-Laws that they be viewed separately from this new section. Mr. Rooney L. Bowen, III made a motion that the By-Laws be adopted as originally written. Mr. Wayne Abernathy made the second and the motion was carried.

Chief Hubert Smith announced that the document presented as an amendment to the By-Laws will be placed on the agenda for a committee meeting to be held in January.

OLD/NEW BUSINESS:

Mr. Bud Black wished all the three agencies a Merry Christmas, noting that they had had a tough year but hoping things will brighten up a bit.

Chief Hubert Smith announced that a committee meeting of the whole Board will be held on Tuesday, January 13th at 3:00 p.m. to discuss the By-Laws and the amendment proposed by Chief Lou Dekmar. Chief Smith appointed Mr. Hal Averitt as the Chair of the committee.

The January Board meeting will be on Wednesday, January 14, 2004, at the GBI headquarters.

Mr. Hal Averitt made a motion for the Board to go into Executive Session. Said motion was seconded by Mr. Wayne Abernathy. All members present affirmatively voted to go into Executive Session.

After Executive Session, the regular session of the Board meeting reconvened and there being no further business Mr. Rooney Bowen made a motion to adjourn, seconded by Chief Lou Dekmar, and the meeting was adjourned.

Chief Hubert Smith
Acting Vice-Chairman/Secretary