

**BOARD OF PUBLIC SAFETY**  
March 14, 2019  
Georgia Department of Public Safety  
Atlanta, Georgia

**BOARD MEMBERS PRESENT:**

Chief Bruce Carlisle  
Mr. Kacy K. Cronan  
Mr. Steve Cronic  
Mr. George Hartwig  
Director Sam Heaton  
Commissioner Michael Nail  
Mr. Lester L. Rampy, Jr.  
Mr. Mark Revenew  
Mr. Charles D. Sikes  
Sheriff Joey Terrell  
Chief Craig Tully  
Commissioner Timothy C. Ward  
Mr. Ellison G. Wood

**BOARD MEMBERS ABSENT:**

Sheriff Dane Kirby

**OTHERS:**

Ms. Amy Radley, Assistant Attorney General  
Ms. Cheryl L. Buie, Board Liaison  
Lt. Colonel Russell Powell, Department of Public Safety  
Major Tommy Waldrop, Department of Public Safety/GSP  
Major Johnny Jones, Department of Public Safety/MCCD  
Major Hank Fielding, Department of Public Safety/GSP  
Captain Mark Lambert, Department of Public Safety/GSP  
Captain Marc Godby, Department of Public Safety/GSP  
Captain Jeremy Vickery, Department of Public Safety/MCCD  
Lieutenant Shawn Prather, Department of Public Safety/GSP  
Lieutenant Brent Moore, Department of Public Safety/MCCD  
Mr. Zachary Howard, Department of Public Safety  
Director Vic Reynolds, Georgia Bureau of Investigation  
Mr. D. Scott Dutton, Deputy Director, Georgia Bureau of Investigation  
Director Chris Wigginton, Georgia Public Safety Training Center  
Mr. Tony Hightower, Deputy Director, Georgia Public Safety Training Center  
Mr. Ray Saxon, Georgia Public Safety Training Center  
Mr. Brian Lawler, Office of Planning and Budget  
Mrs. Louise Rampy  
Mr. Mike Lutzenkirchen, Lutzie 43 Foundation  
Mr. Anthony Hughes

Vice-Chairman Ellis Wood called the March 14, 2019, Board of Public Safety meeting to order.

DPS Retired Sgt. Anthony Hughes gave the invocation and led the group in the Pledge of Allegiance.

Vice-Chairman Wood asked everyone to stand and introduce their self.

Vice-Chairman Wood called for approval of the February 14, 2019 minutes. Mr. Mark Revenew made the motion to approve the minutes, which was seconded by Sheriff Joey Terrell, and voted approved by the BPS members.

### **DIRECTOR REPORTS**

Lt. Colonel Russell Powell, Deputy Commissioner, Department of Public Safety began his report by stating the 105<sup>th</sup> Trooper School will graduate tomorrow with 18 graduating. Lt. Colonel Powell stated the 106<sup>th</sup> Trooper School is still in progress, holding at 35 cadets and will graduate in August and also added there were 66 offers made for the 107<sup>th</sup> Trooper School.

Lt. Colonel Powell shared information and concerns reference the Elliott vs State decision, noting in February, the GA Supreme Court issued a decision on Elliott vs State, a case that involved the prosecution of Andrea Elliott for driving under the influence of alcohol, from a stop in August 2015. Lt. Colonel Powell advised Ms. Elliott was charged with traffic charges and DUI and she refused to consent to the breath test and during her prosecution, the attorney moved to suppress the refusal and argued that the introduction of that evidence at a trial would violate her right against compelled self-incrimination under the Georgia Constitution and the Georgia Code. Lt. Colonel Powell stated the trial court denied Elliott's motion, and Elliott appealed to the Georgia Supreme Court. Lt. Colonel Powell advised the Georgia Supreme Court held that, the Georgia Constitution's right against compelled self-incrimination prevents the State from forcing someone to submit to a chemical breath test and further held that OCGA 40-5-67.1(b) and 40-6-392(d) are unconstitutional to the extent that they allow a defendant's refusal to submit to a breath test to be admitted into evidence at a criminal trial. Lt. Colonel Powell stated this has a great effect on the DPS's DUI cases and explained steps the Department of Public Safety has taken for prosecuting DUI cases. Lt. Colonel Powell stated one of the problems the ruling created for DPS is the implied consent card as it is printed, the officer is required to read the card exactly as printed and that verbiage with regard to a breath test has already been declared as unconstitutional. Lt. Colonel Powell stated the following guidance has been provided to the officers, first of all, obtain a blood or urine sample any time possible and do not ask for a breath test and read the suspect the card as it is written for blood or urine, and if possible, additionally obtain a search warrant, which is a process the officers do go through throughout the state on various cases. Lt. Colonel Powell stated they are recommending regardless of whether the suspect consents to the blood or urine test, to get a search warrant in addition to that, in any case possible, because if the Department goes that route, the suspect still has a right to independent testing and then the officers will complete all the paperwork and practices like they have in the past.

Lt. Colonel Powell noted when it is not practical to get a blood or urine test and when that situation arises, DPS members who make a DUI arrest in a location or circumstance where it is not feasible to get blood or urine, they can only obtain a breath sample following a different procedure and the DPS member after making the arrest, the DPS member will not read the implied consent card, the DPS member will advise the suspect of their Miranda rights and they will ask if they understand their Miranda rights and then after making sure they understand the Miranda rights, they will ask the subject

for consent to perform a state administered breath test and if the subject agrees, they will go for the breath test and additionally, will seek to obtain a warrant for that test. Lt. Colonel Powell added if this route is taken, the subject is not entitled to a test of their own, and then will not follow the same procedure as it applies to with administrative license suspension, will go back to giving them a 180 day driving permit and will not complete administrative license suspension process.

Vice-Chairman Wood asked Lt. Colonel Powell about pending DUI cases that will be subject to the Georgia Supreme Court decision. Lt. Colonel Powell advised the pending cases would be subject to the Georgia Supreme Court decision and noted the Prosecution Attorneys' Council office has put out guidance to other law enforcement agencies.

Chief Bruce Carlisle stated his policy mirrors the policy of the Department of Public Safety and asked if a trooper gets a search warrant from a municipal court judge and then the case request a jury trial and is transferred to Superior Court, is that search warrant still good. Chief Carlisle also asked if the officers are getting their warrants from a municipal court judge or from a county magistrate. Lt. Colonel Powell stated it is done different throughout the state when obtaining search warrants.

Vice-Chairman Wood asked GPSTC Director Wigginton if the training center is covering this in basic mandate training. Director Wigginton responded the staff got with the Prosecuting Attorneys' Council and received their recommendation and forward the information out.

Director Sam Heaton asked Lt. Colonel Powell if the pay increase the DPS received a couple of years ago, has had any impact on hiring. Lt. Colonel Powell responded the pay raise had an immediate effect, had more successful recruiting and had more cadets in the schools, but noted typically a pay raise last about two years and then will start to see other things catch up.

Lt. Colonel Powell introduced Mr. Mike Lutzenkirchen of the Lutzie 43 Foundation. Mr. Lutzenkirchen shared information about the Lutzie 43 Foundation that was established in memory of his son, Philip Lutzenkirchen, shortly after his death in 2014 and the objective of the foundation is to inspire young people to make better decisions as drivers and friends, using Philip's life and legacy to inspire change. Mr. Lutzenkirchen stated he is presenting a donation of 43 Key Seconds and GSP Co-Branded Keys, Lanyards and Countdown Cards for \$22,500.00 from the Lutzie 43 Foundation to the DPS today.

Chief Carlisle shared that TFC Roger Fuller called him a couple of weeks ago, while on a traffic stop on I-85 after stopping a vehicle whom he thought was an impaired driver and when he got to the driver's door, he realized the driver was an elderly man that was experiencing some medical difficulties. Chief Carlisle stated TFC Fuller called him trying to get the man a motel room for the night, to await his family from Savannah. Chief Carlisle stated TFC Fuller had to be at HQ the next am and the hotel was going to put the man out early the next morning due to construction and his family could not be there and was a little distraught that he could not help the man. Chief Carlisle commended TFC Fuller for being a great trooper, who represents GSP well and noted this is what troopers do in and day out, humanitarian efforts on a daily basis, which is not shared on You Tube and Facebook.

Director Vic Reynolds, Georgia Bureau of Investigation spoke to Mr. Lutzenkirchen and told him that his son is not forgotten at Marietta High School, remember him very well and appreciates his and his family's foundation efforts.

Director Reynolds stated as he is becoming more familiar with the GBI, he is beginning to look at things and from his initial review, he is a little concerned about the Crime Lab backlog. Director Reynolds added they will do a deep dive on this and try to figure out if it is a volume issue, a numbers game, maybe some things that can be done internally and externally and thinks there may be some things where they can work with their partners. Director Reynolds stated there may be some items that were initially sent for testing that do not need to be tested, because DAs or solicitors have disposed of cases and will reach out to prosecutors on the prosecution end and see if the Crime Lab can do some things to alleviate that problem. Director Reynolds added most of the backlog is in the chemistry section with drugs and they receive a large volume of drugs in the lab month end and month out to be tested. Director Reynolds added Governor Kemp has recommended the GBI receive five new chemists and one lab tech in the crime lab which will help, and noted the House has approved this and is up with the Senate right now and hoping the Senate will agree the individuals are needed, as the lab can certainly put them to work real soon. Director Reynolds stated Governor Kemp has also graciously recommended the GBI receive eleven new positions in the Cyber Crime Center in Augusta, but the House cut it down to six, and Director Reynolds stated he went over and asked the Senate Appropriations Committee to please raise it up to eleven and hopefully the Cyber Crime Center will be able to get those people. Director Reynolds stated he was surprised to learn the state suffers about 300 million dollars in losses annually due to cybercrime, and virtually every crime the GBI deals with now, has some cyber connection to it; smart phones, computers, things of that nature.

Concerning legislation, Director Reynolds shared he is concerned about the bill regarding low THC oil and will not venture an opinion as to the morality of it and noted if he had a child that suffered from seizures and thought something would help his child, he would probably do whatever he could to get what was needed. Director Reynolds stated the bill, as it is written now, tends to place the GBI with the job of regulating the growth and cultivation of marijuana and he respectfully told members of the legislature and the governor's staff that this is not what we want GBI agents to be doing. Director Reynolds shared there are 920 GBI employees and out of that 920, there are 286 sworn agents. Director Reynolds stated he thinks the governor's staff is in agreement with him right now, that in the grand scheme of things, the agents need to be doing other things, and again this is not speaking on the validity or the appropriateness of the bill, he is just saying from a regulation point of view, it should be someone else besides sworn law enforcement that needs to be doing this.

Director Reynolds stated there were 221 people that applied for GBI agent positions, were very pleased with that number and hopefully out of that group, there will be 18-20 for an agent school in September.

Director Reynolds stated John Melvin from the Cobb County DA's office will be joining the GBI, acting as the Chief of Staff and will be working with Dan Kirk very closely, as they do a deep dive in the crime lab to see what can be done to help the backlogged numbers, both internally and externally.

Director Reynolds stated Mike Carlson will be joining the GBI as the in-house legal counsel, who has published 6-8 books with his father and is one of the preeminent experts in the state in the appellate

section. Director Reynolds added the GBI will be voicing their opinion legally on issues that are pending in front of the Supreme Court and the Court of Appeals, which will involve legal issues pending out of evidentiary nature that the GBI believes will effect law enforcement. Director Reynolds stated Mike Carlson will have the green light to write appellate briefs, as amicus briefs, friends of the court where the Supreme Court is hearing from a law enforcement perspective on what the GBI thinks, legally ought to be done on issues. Director Reynolds relayed he does not think this has been done before as far as an agency, specifically addressing the issues that are pending in front of the Appeals Court, like the Elliott case. Director Reynolds stated they would be writing opinions as friends of the court, amicus briefs, to where if there is a search and seizure issue or something that effects law enforcement state wide, the GBI will have a voice in that. Director Reynolds shared Mike Carlson was at a swearing-in a couple of weeks ago and two Supreme Court justices asked him if he was going to start doing the opinions as Mr. Carlson is a recognized expert in the field of evidence and noted this will give law enforcement a voice at the highest level.

Director Reynolds shared Mrs. Jaret Usher will be joining the GBI and is one of the top two or three gang prosecutors in the state and has more gang convictions than anyone else and will help Deputy Director Dutton stand up the gang task force in the GBI, which has been Governor Kemp's charge to him specifically, to look at the gang issue. Director Reynolds advised the GA Gang Investigators Association told him last summer there are 71,000 validated gang members in Georgia, a low number and his friends at DOC told him there are 13,000 validated gang members in the state prison system and will work closely with DOC and do something about this issue. Director Reynolds stated Mrs. Usher will really get after some stuff, comes from good stock in law enforcement and really ready and anxious and is really excited about standing this task force up. Director Reynolds stated they want to be available to locals if they have a gang issue and noted it is little bit overwhelming to start taking on the gang with the social media aspect that has to be captured with the 3T wire taps that will need to be run to really lock down the evidence and Mrs. Usher is probably one of the top two or three best people in the state that knows how to do that. Director Reynolds added they want to be able to go in and help locals work the drug case, make the gang connection, make a gang connection to a violent crime, can extend the investigation out a little bit, and charge the individuals, not only with the crime that was committed , but also gang charges as well, adding to that. Director Reynolds stated Mrs. Usher will be available to not only do that, but can also sit down with the local prosecutors if they are the least bit uncomfortable drafting the large ombudsman indictments, she can sit down and do that and help the DAs say this is what this indictment needs to look at, this is the evidentiary standards that need to be met. Director Reynolds shared there are a couple of areas in the state that are being looked at and can drop Mrs. Usher in and start working real soon. Director Reynolds advised Deputy Director Dutton will be running point on this with Mrs. Usher and will answer up through his division and are really excited about this.

Director Reynolds expressed the GBI is a tremendous agency, with outstanding men and women who have dedicated their professional life to the GBI and he is very honored and humbled to be a small part of it.

Chief Carlisle asked Director Reynolds about the bill concerning the 50 year storage of sexual assault cases. Director Reynolds replied it will be a concern because of the sheer number of keeping them for that period of time. GBI Deputy Director Dutton added the last version of language associated with

the bill, was that any type of physical evidence associated with a sexual assault case and noted rape kits that are small is reasonable, but when talking about bed linens, clothing and all those other items, it becomes a whole different bear. Director Reynolds added that like any other case there may be pieces of physical evidence that is best kept by the respective law enforcement agency that makes the case as opposed to certain items that may need testing eventually and are still going back and forth with the legislature on the bill.

Mr. Lester Rampy asked Director Reynolds if those that investigate officer involved shootings have special training. Director Reynolds replied there were three officer involved shootings within 24 hours, the past couple of days and all agents are trained up to investigate officer involved shootings. Director Reynolds shared that all of the region offices have a contingency plan if needed, when there are multiple officer involved shootings.

Director Chris Wigginton, Georgia Public Safety Training Center stated once the Supreme Court decision dropped in regards to Elliott vs State, the training center was already updating curriculum and working with the Prosecuting Attorneys' Council and the next day, changes were made in the basic academy classes. Director Wigginton added the GPSTC teaches about 95% of all field sobriety classes that police officers and deputies receive throughout the state and added this decision impacts a lot of what the training center does and were on top of it very quickly.

Director Wigginton stated two years ago, the fire academy received two positions to address the volunteer firefighter program in the state and up until that point the volunteer firefighters received no training that was sponsored by the state. Director Wigginton stated this was a trial run for the training center and two years later, the training center is asking for additional help. Director Wigginton shared the positions has effected about 73 of the 159 counties and have hit several thousand volunteer firefighters with their training. Director Wigginton stated over 50% of the firefighters in the state are volunteers and the training center is hitting on this pretty aggressively.

Director Wigginton stated in the past 30 days since the last BPS meeting, there have been 22 out of state people attend training at the GPSTC. Director Wigginton shared sometimes, one loses sight of what we have in Georgia, lose sight of the type of home or vehicle we drive, and have the best training facility in the training and cannot say that historically, about the instruction that was there, but today, the instruction is there and are the best in the nation. Director Wigginton stated as the out of state training requests come in, not only are we making a positive impact in Georgia, but are also getting national recognition to come and take training here and to carry back their agencies.

Director Wigginton shared a group from Israel and the Republic of Georgia will be at the training center next month.

Chief Craig Tully stated over the years of trying and trying, we have learned the only way to train volunteer firefighters is to take the training to them, because they cannot take off work and come to the academy. Chief Tully noted that 72% of the firefighters in GA are volunteers and is such a burden on them to be able to go and take the training. Chief Tully stated the GPSTC sending the training on site is invaluable as they are saving lives, saving property and bringing much needed training to an area of

fire service that is not able to get the training. On behalf of volunteers, Chief Tully thanked the GPSTC and staff for taking the training to the firefighters and it is opening a lot of doors.

Mr. Charles Sikes stated the GPSTC is part of solving the recruitment and retention of volunteer firefighters, which is becoming an emergency situation in rural Georgia by bringing the firefighter training to them.

Director Wigginton shared the GPSTC is developing podcasts for law enforcement and fire agencies.

**DONATIONS**

Lt. Colonel Russell Powell, Deputy Commissioner, Department of Public Safety requested approval of the following donations:

One Directional Golden Eagle II Radar	\$	2,600.00	Liberty County Sheriff's Dept.
One Stalker DSR 2X Radar	\$	3,181.00	Madison Co. Bd. of Commissioners
Two Stalker DSR 2X Radars and One Truck Vault	\$	6,325.00	Walton County Sheriff's Dept.
Two Troopers to Attend the American Legion National Convention	\$	2,122.20	Dept. of GA American Legion
One Stalker Dual SL Radar	\$	2,073.00	Ben Hill County Sheriff's Dept.
Two Kustom Pro Laser IV Units	\$	4,938.00	Bartow Co. Commissioners
Three Dragon Eye DESL Lasers	\$	6,000.00	City of Dahlonega
One Stalker DSR 2X Radar	\$	3,169.00	Oglethorpe County Probate Court
43 Key Seconds and GSP Co-Branded Keys, Lanyards and Countdown Cards	\$	22,500.00	Lutzie 43 Foundation

The motion to accept these donations was made by Mr. Lester Rampy, Jr., which was seconded by Sheriff Joey Terrell, and voted approved by the Board members.

**OLD/NEW BUSINESS**

**Georgia Fire Academy Advisory Council**

Director Chris Wigginton, Georgia Public Safety Training Center nominated Mr. Pat Wilson, Mr. Craig Dukes, Mr. Freddie Broome, Ms. Paula Carter, Mr. Lee Kirkland and Mr. Michael Morash to serve on the Georgia Fire Academy Advisory Council.

Chief Craig Tully made the motion to approve the nominations presented by Director Wigginton to serve on the Georgia Fire Academy Advisory Council. This was seconded by Director Sam Heaton and voted approved by the Board members.

Director Wigginton shared he has been in conversation with the Guardian Center, who is in the process of getting a contract with Garda World to train law enforcement officers to go in and help stand up an academy and train law enforcement officers in Afghanistan. Director Wigginton advised the Guardian Center would like to use the GPSTC and its instructors as subject matter experts. Director Wigginton stated this would be a preliminary discussion to see what the Guardian Center's request is and how the GPSTC would go forward with this and have also talked with representatives from the AG's office to be included in the conference call, when talking with the Guardian Center representatives.

Mr. Charles Sikes made a motion for Director Wigginton to begin negotiations with the Guardian Center in their request to utilize the GPSTC and its instructors as subject matter experts to train law enforcement officers in Afghanistan. This was seconded by Sheriff Joey Terrell and voted approved by the Board members.

Vice-Chairman Wood reminded the BPS members of the April 18<sup>th</sup> meeting in Glennville.

Vice-Chairman Wood asked the group to keep Mr. Dan Kirk and his family in their prayers after the passing of his mother.

In regards to evidence retention, Mr. Charles Sikes noted when the state crime lab was formed under Governor Talmadge, it became part of the DPS and then went with the GBI in a separate agency in 1974 and then became Division of Forensic Sciences under the GBI. Mr. Sikes stated the best known part of the GBI nationwide, the lab carries a tremendous reputation. Mr. Sikes noted from the time the GBI took the lab system until about 1990, GBI retained all of the evidence, there was a massive repository and at that time, Director Nix looked at it and said the GBI did not need to be retaining all of this evidence, so it was pushed back out to the originating jurisdiction agency. Mr. Sikes noted as DNA advanced and touch DNA came into play and other things in this world, we may have regretted that as the law enforcement community because some agencies did not have the capabilities to retain the evidence. Mr. Sikes agreed that the big stuff evidence should go back to originating jurisdiction agency.

Director Sam Heaton stated this was his farewell meeting and shared it has truly been a pleasure to serve on the BPS.

There being no further business, the meeting was adjourned.

---

Mr. Mark Revenew  
Secretary



