

MINUTES OF BOARD OF PUBLIC SAFETY

August 10, 2005

MEMBERS PRESENT:

Mr. Hal Averitt
Mr. Wayne Abernathy
Mr. Bud Black
Mr. Rooney L. Bowen, III
Commissioner James Donald
Mr. Dub Harper
Mr. Pat Head
Chief Dwayne Orrick
Sheriff Cullen Talton

MEMBERS ABSENT:

Governor Sonny Perdue
Chief Lou Dekmar
Sheriff Bruce Harris
Chief J. D. Rice
Sheriff Jamil Saba

OTHERS PRESENT:

Mr. Chris Brasher, Georgia Department of Law
Ms. Laura Jones, Board Liaison
Colonel Bill Hitchens, Department of Public Safety/Georgia State Patrol
Lieutenant Colonel Arthur White, Georgia State Patrol
Major Keith Sorrels, Georgia State Patrol
Major Don Chastain, Georgia State Patrol
Lieutenant Soffie Thigpen, Georgia State Patrol
Sergeant Paul Cospers, Georgia State Patrol
Lieutenant Scott Johnson, Georgia State Patrol
Sergeant Mark McDonough, Georgia State Patrol
Ms. Melissa Rodgers, Department of Public Safety
Ms. Chiquita Johnson, Department of Public Safety
Mr. Terry Landers, Georgia State Patrol
Ms. Becky East, Georgia State Patrol
Chief Mark McLeod, Motor Carrier Compliance Division
Major Billy Boulware, Motor Carrier Compliance Division
Director Vernon Keenan, Georgia Bureau of Investigation
Deputy Director Paul Heppner, Georgia Bureau of Investigation
Inspector Bill Malueg, Georgia Bureau of Investigation
Mr. Jon Paget, Georgia Bureau of Investigation
Mr. Mark Jackson, Georgia Bureau of Investigation
Ms. Dawn Diedrich, Georgia Bureau of Investigation
Ms. Lisa Weaver-Johnson, Georgia Bureau of Investigation
Mr. Ray Higgins, Georgia Bureau of Investigation
Director Dale Mann, Georgia Public Safety Training Center
Mr. Bob Buffington, Georgia Public Safety Training Center
Mrs. Bob Buffington, Georgia Public Safety Training Center

Mr. Richard Guerreiro, Georgia Public Safety Training Center
Ms. Patrice Kerner, Office of Planning and Budget
Mr. Rick Shreve, Office of Planning and Budget
Chief James Chadwick, Dalton Police Department

Vice-Chairman Donald welcomed everyone to the Board of Public Safety meeting, asking the Board members if they wish to acknowledge any visitors. Sheriff Cullen Talton introduced Captain Reuben McGee from the Sheriff's office. Vice-Chairman Donald then requested everyone around the room to introduce himself/herself.

A Resolution was presented to Mr. Bob Buffington, who is retiring from the Police Academy under the Georgia Public Safety Training Center. Director Dale Mann began with describing Mr. Buffington as someone who has touched every police and sheriff agency in the State. After reading the Board Resolution, everyone was invited to give their honor and comments. Mr. Buffington thanked the Board members, notably thanking Mr. Wayne Abernathy for being instrumental in helping get the Police Academy started. The Board helped to make it become an integral part of daily operation for law enforcement agencies across the State; every year there are cases worked on officer-involved shootings. Mr. Buffington does not want to leave, but with medical reasons, it has become necessary; hence, he is offering to continue helping with cases.

Vice-Chairman Donald called for a motion to approve the July Minutes, which was made by Mr. Wayne Abernathy, seconded by Mr. Hal Averitt, and unanimously voted approval by the Board.

DIRECTORS' REPORTS

Colonel Bill Hitchens, Department of Public Safety/State Patrol, first introduced Ms. Chiquita Johnson, a new employee with the Department. Ms. Johnson comes from the Department of Motor Vehicle Safety and is now the Department of Public Safety's new Deputy Chief in the Legal Services Division.

Colonel Hitchens began with reporting that the employee count is the same for this month. He continued with noting reorganization. The law enforcement division under Department of Motor Vehicle Safety was brought over to Department of Public Safety. This division will be known as the Motor Carrier Compliance Division. Colonel Hitchens provided a copy of the old organizational chart, along with the newer organizational chart, reflecting where the MCCD falls in the structure. Also, a more definitive chart was provided showing the structure of the MCCD itself. In response to a question if the regions are the same size as the troops, Colonel Hitchens stated there are differences if trying to compare the units; and there are differences in rank structure and other areas. In response to a question of change of uniforms and vehicles, Colonel Hitchens explained that the patches on the uniforms are changing; the vehicles are being changed

to reflect Department of Public Safety and with placing MCCD on the back of the vehicles. In response to a question if MCCD will run radar, Colonel Hitchens stated it is something being looked at. In response to a question of assisting State Patrol during weekends and holidays, Colonel Hitchens stated that because of its significant funding from the federal government, there are compliance issues. If MCCD falls short in certain areas, it will not receive the federal funding.

Mr. Hal Averitt made a motion to approve the organizational chart, which was seconded by Mr. Rooney L. Bowen, III and unanimously voted approval by the Board members.

Colonel Hitchens then reported to the Board the issue of the Department's pursuit policy. After several meetings and a Board committee meeting to discuss this issue, the final version of the policy was sent by e-mail to the Board members.

Vice-Chairman Donald, at this point, requested Mr. Hal Averitt, chair of the State Patrol Committee, to give his committee report. Mr. Averitt reported that a committee meeting was held on August 2nd at State Patrol headquarters. It was a very good meeting; the policy was very well explained. At that committee meeting, several changes were made and it was agreed that if anyone did not agree, to please make Mr. Averitt aware. Mr. Averitt received an e-mail from Chief Lou Dekmar, who was not attending today's Board meeting. Chief Dekmar's concern, as Mr. Averitt read aloud, was not addressing the speed at which PIT is deemed constituted as deadly force. Mr. Averitt stated that this issue had been addressed at the committee meeting; hence, he requested Colonel Hitchens to explain it again.

Colonel Hitchens responded that the issue of speed had been discussed extensively. When making a PIT maneuver, several factors are taken into consideration. Based on those factors and circumstances, the law enforcement officer would have to determine the speed. Mr. Chris Brasher added here that the policy addresses the tools needed, but that State Patrol recognizes the limitations of the tools. The need is to have extensive training on any instrument, when used in a certain way, could lead to serious injury or death. Clearly, the PIT maneuver can be used as deadly force; just as flashlights, firearms, vehicles, can be used to inflict deadly force. If trained properly, it is in compliance with the law; if officers are not trained properly, then the agency is liable. Mr. Brasher supports the policy and believes the policy is defensible. State Patrol is committed to the policy and to training the officer.

Colonel Hitchens stated that with every PIT maneuver that occurs, there is a critique. The commander forwards the information to the troop commander, and, after critiquing the event, forwards the report on to the commanding officer. If the trooper, involved in the PIT maneuver, has acted inappropriately, proper disciplinary action is administered. Colonel Hitchens added that every trooper will go through eight hours of additional training regarding liability and safety issues, along with incorporating taser training.

With a question if radio operators needed classroom training as to know what is expected from the operator, Colonel Hitchens responded there are certain guidelines used daily by radio operators.

Mr. Bowen stated that Section H of the Policy specifies “an annual analysis of all pursuit reports shall be presented, in writing, to the Commissioner of the Department of Public Safety for their review....” Mr. Bowen requested that a copy of the annual analysis be provided to the Board of Public Safety.

Chief Dwayne Orrick expressed concern that other law enforcement agencies might ask State Patrol to get involved in a chase, but that particular situation may not meet the standards that State Patrol has established. Chief Orrick inquired if State Patrol restricted PIT on motorcycles and ATVs. Vice-Chairman Donald requested, because of Chief Orrick’s point, that the restriction be added to the pursuit policy.

Vice-Chairman Donald requested a motion to approve the pursuit policy, which motion was made by Mr. Hal Averitt, seconded by Mr. Wayne Abernathy, and unanimously approved by the Board members.

The Board members commended the Training Staff, the Legal Services division, and the Attorney General’s office for their long hours of discussions and work on this policy. Colonel Hitchens complimented Mr. Chris Brasher for going above and beyond time spent advising in this matter.

Director Vernon Keenan, Georgia Bureau of Investigation, stated his report is based around a presentation which will be given by Ms. Dawn Deidrich, Assistant Director of the GBI Legal Affairs office, and with Chief James Chadwick of Dalton Police Department. To begin with, Board Member Lou Dekmar, as the former President of Georgia Chiefs Association, appointed a committee of experts to research the taser. Chief Dekmar requested that the committee make a recommendation to Georgia law enforcement as to training and use of the taser. Before turning it over to the presenters, Director Keenan described Chief Chadwick as one of the most professional police chiefs in Georgia. Director Keenan, with high regard for Ms. Deidrich, stated she was a police officer before becoming a lawyer.

Chief Chadwick began the presentation with stating he represents the committee. The committee had the challenge to develop a model policy for the use of electronic weapons and determine where the use of electronic weapons fall on use of force continuum, and, then develop a white paper. With a copy of the white paper, *Electronic Control Weapons in Georgia: Review and Recommendation*, given to the Board members, Chief Chadwick began describing the report and the committee.

The committee was comprised of physicians, lawyers, attorneys, professionals. Because of the media's embellishment of taser user, the committee held meetings to obtain the facts. Meetings were held with other groups such as Amnesty International, Southern Center for Human Rights, and Georgia Senate Research; wanting to hear from everyone about the issue.

The white paper is divided into five sections: Introduction, Use By Law Enforcement In Georgia, In-Custody Deaths, Legal Cases, Considerations, and Conclusion and Recommendations.

With the section Use By Law Enforcement in Georgia, Chief Chadwick defined a taser by describing when a person walks across the carpet, touches a doorknob, the person feels static electricity. A taser device is made to give the person 1,000 of those static electric shocks. When a person is shot with a taser, it causes the person's voluntary muscles to shut down. Electronic control weapons have been available since 1999.

Ms. Deidrich stepped in to discuss the section In-Custody Deaths. At the time of the white paper, there were six deaths that occurred after taser use. The medical examiners never concluded in those incidents that the taser was the cause of death. The white paper has an appendix listing the deaths. Nationwide, there are eleven deaths where the taser was linked or not ruled out as contributing factor. Under the section Legal Cases, Georgia is in good situation in terms of its laws. There are two cases involving tasers; neither one involve someone dying after the use of a taser.

Chief Chadwick stated there has been a lot of focus on the taser itself; whether the device is dangerous. Looking at court opinions, the court looks at whatever force the officer has used as to whether that particular action was reasonable. When using the taser device, there should be justification for using it and it should be reasonable. Under the section Policy Considerations, the committee recommends that every agency have a policy regarding the use of electronic control weapons. The committee recommends that agency heads address several issues in their policy. *Placement of the electronic control weapon on the use of force continuum.* Research has shown that some agencies have the taser device on the same level as the OC spray. *Provide for reporting.* Every time a weapon is pulled, a use of force report should be filed. It is imperative that a supervisor review these use of force reports. *Use of "drive-stun" mode,* which is the end of the weapon is touched to the subject's body. The drive-stun mode does not immobilize the subject. Using the weapon in this manner will result in the subject continuing with resisting the officer. The white paper recommends that officer ask the subjects if they need medical attention after use of the electronic weapon. Dr. Kris Sperry, a committee member, was instrumental in addressing the concerns of the effect of electronic control weapon on children, pregnant women, and elderly people.

Ms. Deidrich went on with stating the committee put in its Recommendations section areas of policy, training, and reporting. Agencies should promulgate a policy governing the use of

electronic control weapons; should provide training to their officers prior to deploying electronic control weapons; and officers should report every time the electronic control weapon is used.

As one of the appendices to the white paper, Appendix F is the GBI Use of Force Report, which was briefed to the Board members. Ms. Deidrich explained that every GBI agent has been issued a taser and has gone through an eight-hour block of training. Ms. Deidrich gave several examples of active resistance and that training uses several of the examples. Attempt to commit violent injury to the person of another; the commission of an act which places the agent or another person in reasonable apprehension of immediately receiving a violent injury; verbal threat to fight or resist arrest where the agent has a reasonable belief that the subject will carry out the threat; flight after notification that the subject is under arrest; and resisting restraint or arrest by pulling away or refusing to submit to the officer's control amounting to enhanced physical or mechanical defiance. The GBI policy states whenever practical, a verbal warning should be issued before using taser.

When use of force is used by a GBI agent, reporting is required. There are very specific questions as to the use of the taser. Data from the taser can also be downloaded, in order to know exactly how many 5-second bursts were used on the subject. Every report is reviewed by the Director of Office of Professional Standards; thereby seeing what concerns he may have about those use of force incidents.

Points were further made of the use of taser. Ms. Deidrich reiterated that the drive stun mode does not immobilize the subject. A GBI agent will not use the taser on handcuffed or otherwise restrained subjects. The taser will not be used on subjects who appear to weigh less than 100 pounds; will not be used on women known to be pregnant; and should be avoided on the elderly.

Another point made is multiple strikes. If the subject is not incapacitated and compliant after two 5-second bursts, then the GBI agent will consider using another form of non-deadly force. While doing this scenario in training, it is explained that if it is not working, then think of doing something else. If multiple agents are present, then after the first 5-second burst, all the agents need to move in and restrain the subject.

Chief Chadwick stated that the committee made additional recommendations. The GBI will continue analyzing in-custody deaths to be able to provide information to law enforcement. The committee recommends P.O.S.T. be appropriated funding to establish certification requirement for electronic control weapon use. It is recommended that appropriate funding be provided to GPSTC to provide statewide training. Another recommendation is to standardize the form of reporting use of force information and putting it in on a statewide database. The final recommendation is to request the General Assembly to enact laws prohibiting the sale of electronic control weapons to the public.

Chief Chadwick and Ms. Deidrich stated that the committee established the conclusion that the electronic control weapon, when used properly and in accordance with the law, is an appropriate tool for law enforcement because it prevents injuries to suspects, prisoners and law enforcement. It is noted that upon a poll taken, the public supports the continued use of tasers by police; 44% strongly support the use of non-lethal weapons; and, 76% believe the use of tasers keep their community safe.

Director Dale Mann, Georgia Public Safety Training Center, congratulated both agencies on addressing the PIT issue and the taser issue, both being important issues. The Training Center is involved with both agencies in these issues.

Director Mann requested the Board approve a Resolution allowing the Training Center to sell bonds. The Resolution is to allow bond sales of \$1.65 million that will finance roof repairs, water tower repainting, and dorm renovation. Mr. Richard Guerreiro added that this is a Georgia State Finance Indemnification Commission bond sale for all the bonds that are now being released, now that the AAA rating has been established. Mr. Rooney L. Bowen, III made the motion to approve the resolution for this bond sale, seconded by Mr. Dub Harper, and unanimously voted approval by the Board.

DONATIONS/RESOLUTIONS:

Mr. Terry Landers, Georgia Department of Public Safety/State Patrol, requested approval of three donations:

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| 32" RCA Television set and 13" Magnavox Television/VCR | \$ 650.00 | Berrien County Commissioners |
| Three 14" RCA Television sets Three Magnavox VCRs | \$ 500.00 | Meriwether County Commissioners |
| Genesis II Radars Pro Lasers (4) With Infrared Lidar System | \$16,080.00 | Sheriff Scott Chitwood Whitfield County Sheriff |

Mr. Rooney L. Bowen, III motioned approval of the donations, which was seconded by Mr. Wayne Abernathy, and unanimously voted approval by the Board members.

Mr. Richard Guerreiro, Georgia Public Safety Training Center, requested approval of a donation:

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| One Highway Grade Crossing Device System | \$ 1,000.00 | Norfolk Southern Corporation |
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Mr. Rooney L. Bowen, III motioned approval of the donation, which was seconded by Mr. Wayne Abernathy, and unanimously voted approval by the Board members.

Mr. Jon Pagett, Georgia Bureau of Investigation, requested approval of a bond resolution, which will be a bond sale by GSFIC. The bond sale is for repaving the parking lot at the GBI headquarters. Mr. Rooney L. Bowen, III motioned approval of the bond resolution, seconded by Mr. Wayne Abernathy, and unanimously voted approval by the Board.

ADMINISTRATIVE/EMERGENCY ISSUES

There being none.

NEW/OLD BUSINESS

Mr. Rooney L. Bowen requested that the GBI and State Patrol keep the Board notified when training will be held for PIT and for taser. The Board members would like to see and hear what is actually being trained and what is being taught from the policy.

Mr. Bowen took a moment to brag on Lieutenant Soffie Thigpen. During the time he has known Lieutenant Thigpen, she has taken on many roles within State Patrol. He noted that she gets out and works with her troopers. Lieutenant Soffie Thigpen is in there as the arresting officer a lot of times. As a lieutenant, she sets a fine example for the people she leads in Troop C; Mr. Bowen wanted to say how much he appreciates what she does.

Vice-Chairman Donald commended the folks in the room, thanking them publicly for the work they do. The Board members are proud of the agencies and staff; whatever policies the Board recommends is to protect the troopers and agents.

The September meeting will be held in Atlanta. Mr. Bud Black has invited the Board to hold the October Board meeting at his place, but it is suggested that the date be changed to October 13.

There being no further business, the meeting was adjourned, which was motioned by Mr. Wayne Abernathy.

Mr. Rooney L. Bowen, III
Secretary