

ILLINOIS STATE POLICE MERIT BOARD

MINUTES

BOARD MEETING – July 20, 2012

Present were John Rednour, Board Chairman; Ken Schloemer, Board Secretary; George Pradel, Board Member; James Riley, Board Member; Arthur J. Smith, Board Member; Ronald Cooley, Executive Director and Julie Jones Webster, Human Resource Specialist. The meeting was held at the James R. Thompson Center, Room 9-034, Chicago, IL.

Also in attendance was Master Sergeant Patrick O'Driscoll, Teamsters Local 700; Mr. John Hosteny, ISP Legal; Laura Bautista, Attorney General's office; Kati Ariss, Attorney General's office; Allen Yow, Attorney for Merit Board; Joseph Mazzone, Attorney; Dimitrios Tsambikou, ISP Special Agent; Cynthia Robbins; Jim Baker, Attorney; Gregory Morris; Brenda Schrader; Nora Sansone Hoover; Tom Metcalf, Retired ISP; Danyelle Foster; ISP/ABLE; and Danny Vega, ISP/HISLEA.

Chairman Rednour opened the meeting at 10:00 AM.

He reminded everyone that the meeting was being recorded for ease in writing the minutes.

The following minutes were approved:

April 20, 2012 – 2nd Quarter Merit Board Meeting

Mr. Ron Cooley reported that Cadet Class #120 held Oral Interviews on July 11 & 12 and 71 candidates have been certified to the Illinois State Police. Class #120 is scheduled to begin on September 16 with hopes to graduate 60 officers. Mr. Cooley reported that there are approximately 5,000 people who have signed up to be notified when the application process opens. Recruitment Testing will probably be held in Chicago, with at least two locations, and downstate in November and December.

Mr. Cooley reported the deadline for registering for the 2012 promotional exam is July 31. Sergeant exam will be held September 20. The Master Sergeant exam and assessment exercise is scheduled for the week of September 24 – 28.

Mr. Cooley advised the attendees that the Board would consider the case of Special Agent Cynthia Robbins that was remanded to the Board by the Circuit Court of Sangamon County. The court directed the Board to determine an appropriate penalty to impose on Robbins; however, the court ordered that the Board may not discharge Ms. Robbins from employment with the ISP. The Board had the Hearing Officer's Findings of Fact and Conclusions of Law and all briefs filed by the parties as part of the Administrative Review proceedings. Transcripts of the hearing before Hearing Officer Mifflin were also provided to Board members for review.

Mr. Cooley asked if either party wished to address the Board with oral arguments before they went into closed session to vote on the matter. AAG Bautista was present representing the ISP and Jim Baker was present representing Cynthia Robbins.

Attorney Jim Baker addressed the Board first stating that SA Robbins record show that her service to the ISP from April 1999 until August 2007, the time in question when she was removed from service was

satisfactory. He stated that a misunderstanding had taken place in that Ms. Robbins engaged in a campaign of terror for the better part of a year, which did not happen. Baker stated that Ms. Robbins did engage in misconduct at two points in time; between November 2006 into January 2007. Further acts of misconduct were unrelated to her ISP duties in late May and early June of 2007. Baker stated that at no time during the hearing process did Ms. Robbins ever indicate she did not engage in misconduct, on the contrary, she was forthright in acknowledging her misconduct during interviews with ISP officers and during the hearing of this case. The issue Ms. Robbins has raised is that the punishment be 1) proportionate as discipline assessed to other ISP officers; and 2) that the circumstances to which her misconduct occurred be taken into consideration. Attorney Baker wanted to share several undisputed, factual propositions: 1) the conduct Ms. Robbins engaged in was not typical of her. It occurred in the wake of a devastating personal experience in which a 14 year relationship had come to an end; 2) She had no opportunity to put closure to the relationship because she had no opportunity to discuss the ending of the relationship with her partner since he had left for Afghanistan when she found out from other parties that the relationship was over; 3) in the wake of that tragedy, Ms. Robbins had a melt down by consuming excessive amounts of alcohol. According to Ms. Robbins, she was completely out of control. Four witnesses at the hearing testified to the fact that she became totally different, crying, losing lots of weight, and not sleeping to name a few things. They testified that they believed it wasn't safe for her to carry a firearm. Baker stated that it was during this time Ms. Robbins engaged in the conduct in which occurred in November, December and January.

According to Attorney Baker, the next undisputed proposition is that Ms. Robbins realized she had a problem and sought out help. Record shows that from January 2007 to January 2008 she sought help from Dr. Thomas Lowe, a clinical psychologist, on at least 23 separate occasions. During his testimony in the case, Dr. Lowe stated she suffered from severe depression. According to Dr. Lowe, anger and impulse control ability can be signs of depressive behavior. Dr. Lowe attributed her conduct to the mental illness she was suffering from. Baker stated that January 2008 Dr. Lowe released Ms. Robbins from treatment, concluding that through the course of therapy and her working on her problem, the depressive condition had reached a point where there was no active symptoms and she was in a much better situation.

Attorney Baker stated that another undisputed proposition is that ISP and Ms. Robbins stipulated and prepared a detailed packet of discipline of other ISP officers. Baker stated that the packet is significant in two respects, it contains the facts underlying the discipline, it contains the recommendations of ISP concerning the discipline, and it contains the decisions of the Merit Board. The packet looked at a number of ISP officers of different rank, with multiple felonious acts, and the discipline assessed in each of those cases was substantially less than Ms. Robbins case. Given that undisputed set of facts, and given the discipline handed out in other cases where conduct did not arise in the context of the personal tragedy that Ms. Robbins was undergoing; he believes that an appropriate discipline would be a suspension. He understands that the Board is limited to a suspension of no more than 180 days, so he stated he was asking for a suspension of 90 days. Baker stated he is asking for 90 days because of the other discipline handed down by the Board, such as the Trooper Diane VanderKoy matter. Trooper VanderKoy was found guilty of multiple occasions of engaging in two felonies: 1) committing forgery and 2) official misconduct by falsifying warning tickets to enhance her performance record. She was also found lying to a supervisor and engaged in multiple acts of damaging private property belonging to the citizens of the state of Illinois. She was given a 90 day suspension for that conduct. Attorney Baker stated her conduct was much more serious than Ms. Robbins conduct. Baker stated there was no evidence of extenuating circumstances in Trooper VanderKoy's case as there was in Ms. Robbins case. Baker stated that after VanderKoy was promoted to

Sergeant she was guilty of two other felonies in violation of the Illinois eavesdropping act and received a 10 day suspension. Baker also compared Trooper Hanson's discipline matter in the evidence of beating his son, which under Illinois law, would also constitute felony. ISP asked the Merit Board for a suspension of 180 days for Trooper Hanson, but instead, after hearing the case, assessed a 45 day suspension. Attorney Baker stated he is asking twice what was assessed to Trooper Hanson.

In conclusion, Attorney Baker asked the Board to consider the context in which this conduct occurred and the work record of Ms. Robbins as well as what the Board has done in other discipline cases.

No one had any questions for Attorney Baker.

Laura Bautista, attorney for the ISP addressed the Board next. Attorney Bautista reminded the Board that even though Attorney Baker reported Ms. Robbins actions only took place over a couple of months, the Hearing Officer found that her behavior actually was over a period of six months. The facts found by the Hearing Officer are that Ms. Robbins terrorized the new girlfriend after the breakup. She sent thousands of emails to the new girlfriend from her ISP computer. She misused her equipment to launch an unauthorized investigation to search the new girlfriend's information. Robbins then used that information to assume the girlfriend's identity and cancelled her flight plans to Las Vegas. Robbins purposely used her position with the ISP to engage in this conduct. The facts are in the record and the Board members have that information to remind them. Additionally, in terms of discipline, the ISP still feels that discharge is appropriate, but understand that the Board is bound by the Circuit Courts order and must do as the court ordered. Bautista asked that the Board reflect the fact that discharge is still appropriate in their Order and state that the only reason something less than that is being approved by the Board is because of the Circuit Court's order. Bautista stated that the comparables Mr. Baker chose to address continues to misrepresent the misconduct in the other situations. He wants to describe Trooper VanderKoy as committing two felonies, forgery and official misconduct, but that isn't what was actually found. The Board found that VanderKoy didn't commit any crimes, but rather she was guilty of violation of rules. In the Robbins matter, the Hearing Officer actually found crimes were committed and that's different than someone comparing the facts to criminal statute and that crimes could have been committed.

Additionally, Mr. Baker stated that VanderKoy was guilty of eavesdropping; however, the ISP found she was not guilty of committing any crimes, but violated rules of improper conduct and brought the department into disrepute. Bautista stated that just because they could have been crimes doesn't mean they actually were. The discipline imposed to VanderKoy was on the basis that there was no violation of crime, simply rule violations.

Finally, Bautista spoke regarding Baker's statement of aggravated battery in the Trooper Hansan matter; however, the Board found that he was not guilty of any crimes, but instead found he violated the rule of conduct unbecoming an officer. Just because it could fit into a criminal statute, doesn't mean that was the finding by the Board and that the discipline imposed was not on the basis of finding there was a crime. Attorney Bautista stated that the ISP knows the Board has been directed by the Circuit Court that a 180 days of suspension is the highest the Board is allowed to give to Ms. Robbins. The ISP ask the Board to impose a 180 day suspension, and additionally, Ms. Robbins be required to have a successful completion of a fitness for duty exam by a psychologist or psychiatrist retained by the department. Attorney Bautista state that requirement is

very appropriate because of the very fact Respondent addressed in that Ms. Robbins had a meltdown and lost control, started drinking, and completely out of control, where at one point it was stated it wouldn't be safe for her to carry a gun. These are serious issues in bringing her back on, especially in the number of years that have passed since she was last an active duty officer. The ISP feel it is an appropriate requirement to be completed before she is reinstated.

Attorney Baker's response to Attorney Bautista's argument started by reminding the Board of their responsibility to award Ms. Robbins back pay from the time of her suspension, minus the days the Board decides to suspend her. Secondly, regarding the request for a psychological examination, he stated that the Americans with Disability Act (ADA) prohibits employers from requiring such an examination, unless there is evidence of a condition that creates justification for such an exam. Baker stated that should the Board direct her to submit to a psychological examination, one of two things should occur. One, it should be undertaken in a manner consistent with collective bargaining covering her employment. Secondly, he stated that the psychologist be mutually selected by Ms. Robbins and the ISP, and one who practices in Sangamon County.

Mr. Smith asked Baker, why Sangamon County, whose answer was it is more convenient for Ms. Robbins and there are several well qualified psychologist in the county. He mentioned Dr. Terry Killion, who he stated is one of the most recognized psychologists in the state.

Director Cooley asked if there were any other questions from the group. There were none.

The Board went out of Open session and entered closed session.

The Board discussed the discipline matter of Cynthia Robbins.

The Board discussed the Joint Motion to Dismiss on Trooper Robert Swift.

The Board discussed the discipline matter of Special Agent Dimitrios Tsambikou.

Mr. Cooley discussed Capitol business and Lawsuits.

Julie updated the Board on the Disciplinary report.

Mr. Cooley updated the Board on the personnel hiring situation for the Merit Board.

The Board discussed keeping the April 20, 2012 closed meeting minutes confidential.

The Board voted to go out of closed session and enter back into open session.

The Board asked house council, Attorney Allen Yow, to read the Decision they will vote on in the Cynthia Robbins matter. The Decision states Ms. Robbins will be suspended without pay for a period of one-hundred and eighty (180) days. Prior to returning to active duty she is to undergo a psychological evaluation demonstrating she is fit to resume her duties as a Special Agent with the ISP. Said evaluation is to be scheduled and paid for by ISP and should be selected by ISP. The Board also orders that the department pay Ms. Robbins for the period of time she has been suspended in excess of one-hundred and eighty (180) days, plus interest at a rate of 7% per annum, as required by statute.

The Board voted unanimously to suspend Cynthia Robbins for a period of one-hundred and eighty (180) days and ordered the ISP to pay Ms. Robbins for the period of time she has been suspended in excess of one-hundred and eighty (180) days, plus interest at a rate of 7% per annum, as required by statute.

The Board voted to accept the Joint Motion to Dismiss in the Trooper Robert Swift matter.

Mr. Cooley advised the attendees that the Tsambikou matter is tabled until a later date.

Attorney Yow informed the Board that a motion is needed directing the attorney to draft the Decision in conformance with the courts finding in the Cynthia Robbins matter. A motion was made, seconded, and unanimously voted to have Attorney Yow draft such Decision.

Mr. Cooley stated that there was a change to the Selection Policy (MB09), adding five (5) points to the final score of a dependent of a fallen officer who was killed in the line of duty. Motion made and seconded to change said policy.

The Board voted to keep the April 20, 2012, closed meeting minutes confidential.

The Board voted unanimously to adjourn the meeting.



Ken Schloemer, Secretary