

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ADMIN 1000 (Rev. 1/78)
SF-00006-01

Our File: 627

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : CAROL PORTER
State Register

DATE: 8/26/80

FROM : JUDITH WEHRWEIN
Legal Assistant

PHONE: 296-4347

SUBJECT: POST Board Rules - Peace Officers, Part-Time Officers & Constables

This is to confirm our telephone conversation of today in which I informed you the above referenced rules have been approved by this office and filed with the Secretary of State. Therefore, publication in the State Register would be in order.

JW/bw
Encl.
cc: Duane Harves
Susan Robertson

ADMIN 1000 (Rev. 1 78)
SF-00006-01

Our File: 6[redacted]

STATE OF [redacted]NNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : BILL CARTER

DATE: 8/26/80

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Rules as Approved In the Matter of the Proposed Adoption of Rule Amendments of the Minnesota Board of Peace Officer Standards and Training Governing the Licensing of Peace Officers, Part-Time Officers and Constables

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JSA/bw
Encl.
cc: Duane Harves
Susan Robertson

Dir File # 627

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 8/14 DUE DATE 9/3

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary of State _____
b. Approved 8/26 Date Sent Back to Agency 8/26

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1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable ✓
4. Order for Hearing ✓
5. Notice of Hearing ✓ 7.24.80
   Sufficiency ✓
6. Secretary of State's List not submitted but (one copy only) see Nos. 7-8-9
7. Certificate of Acquisition of Secretary of State's List ✓
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓
9. Affidavit of Mailing ✓
   At least 30 days prior to hearing ✓ 6.18.80
10. Publication in State Register ✓
    At least 30 days prior to hearing ✓ 6.23.80
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓ labelled "Report of CHE"
13. Agency's Findings of Fact ✓
14. Certificate of Board's Resolution Adopting Rules, where applicable ✓
15. Order Adopting ✓
16. Report of Chief Hearing Examiner not required pursuant to Laws 1980, Ch. 615
17. Order Approving Incorporation by Reference, where applicable _____
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N/A
20. Petition by Public, where applicable N/A.

AG copy

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE Duane R. Harves,
CHIEF HEARING EXAMINER

In the matter of the Proposed Adoption of Rule Amendments of the Minnesota Board of Peace Officer Standards and Training Governing the Licensing of Peace Officers, Part-Time Officers and Constables

ORDER ADOPTING RULES

The above entitled matter came on for hearing before Duane R. Harves, chief hearing examiner of the State of Minnesota, on the 24th day of July, 1980, in room 83 of the State Office Building, 435 Part Street, St. Paul, Minnesota 55155, at 9:00 a.m., after proper notice required by Minn. Stat. 15.0412 as amended by Laws 1980, ch. 615 was served upon all persons, assoications and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules

NOW, THEREFORE, IT IS ORDERED that these rule amendments identified as 4 MCAR § 13.002 A. 22., 4 MCAR § 13.006 E., 4 MCAR § 13.006 I., 4 MCAR § 13.006 J., 4 MCAR § 13.006 M., and 4 MCAR § 13.014 A. - C. are adopted this 11th day of August, 1980, pursuant to authority vested in me by Minn. Stat. § 626.84 - .855 (Supp. 1979), as amended by Laws of 1980, ch. 578.'

STATE OF MINNESOTA
BOARD OF PEACE OFFICER
STANDARDS AND TRAINING

Richard W Setter

CHAIRMAN

HG copy

AMENDMENTS AS ADOPTED

4 MCAR § 13.002 Construction of terms.

A. Definitions. For the purpose of these rules the words, terms and phrases shall have the meanings hereafter given them, unless another intention clearly appears.

22. Part-time officer: as defined in Minn. Stat. § 626.84, Subd. 1 (f).

4 MCAR § 13.006 Licensing of peace officers.

E. Students shall furnish the board proof of successful completion of one of the following approved first aid courses:

1. Red Cross advanced first aid;

2. Crash Injury Management (CIM); or

3. Emergency Medical Technician (EMT).

The first aid course shall be successfully completed prior to the issuing of the license.

I. Upon successful completion of both portions of the peace officer licensing examination, a student shall be certified eligible for employment as a peace officer for a period of not more than one year. Any student who obtains employment as a peace officer shall be issued a license.

J. An individual elected or appointed to the position of peace officer in the State of Minnesota shall be granted a license upon successful completion of a basic course and successful completion of the peace officer licensing examination.

M. Any peace officer who is certified and employed in good standing in another state shall be eligible for licensing in Minnesota provided that he:

1. successfully completes a peace officer licensing examination pursuant to 4 MCAR § 13.006 K.; and

2. is employed within the State of Minnesota and complies with the provisions of 4 MCAR § 13.020 B.

4 MCAR § 13.014 Provisional part-time officer/constable license.

A. An individual elected or appointed to the position of part-time officer or constable by a political subdivision shall be granted a provisional part-time officer/constable license.

B. Provisional license granted upon appointment:

1. Will expire six months after date of appointment unless the board receives notice of compliance with Minn. Stat. 626.8463 (a).

2. Will expire in 12 months unless the board receives notice of compliance with Minn. Stat. 626.8463 (b).

3. Will expire in 24 months unless the board receives notice of compliance with Minn. Stat. 626.8463 (c).

4. Upon receipt of notice of compliance with Minn. Stat. 626.8463 (a) to (c), the board shall issue a permanent part-time officer license to the part-time officer or shall issue a license to a constable valid for the constable's present and successive terms of office.

C. This rule applies to individuals appointed or elected to the position of part-time officer pursuant to Minn. Stat. § 626.8463. This rule shall not apply to individuals appointed pursuant to Minn. Stat. § 626.8464.

APPROVED AS TO FORM AND LEGALITY

AUG 26 1980

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 26 1980
Joan Anderson Growe
Secretary of State
10:00 AM

MINNESOTA BOARD OF
PEACE OFFICER STANDARDS AND TRAINING
500 METRO SQUARE BUILDING
ST. PAUL, MINNESOTA 55101

Mark K. Shields
Executive Director
(612) 296-2620

August 14, 1980

Mr. J. Michael Miles
Assistant Attorney General
Administrative-Finance Division
50 Sherburne Avenue
St. Paul, MN 55155

Dear Mr. Miles:

Pursuant to the Administrative Procedures Act and the Rules of the Attorney General, the POST Board is submitting the adopted rule amendments for review of form and legality.

These amendments correct the hardship caused by 1980 Minn. Laws, ch. 578, and allow part-time officers to carry a firearm while they obtain their license and a newly trained peace officer to carry a firearm upon appointment to the position. Because of the significant impact these amendments have upon Minnesota law enforcement and the pending litigation in Itasca County, it is requested that review of the enclosed documents be given a priority.

Thank you for your consideration.

Sincerely,

Mark K. Shields

Mark K. Shields
Executive Director

MKS:jm
Enc.

JUN 3 1980 Rule As Proposed
OFFICE OF HEARING EXAMINERS

4 MCAR § 13.002 Construction of terms.

A. Definitions. For the purpose of these rules the words, terms and phrases shall have the meanings hereafter given them, unless another intention clearly appears.

22. Part-time officer: as defined in Minn. Stat. § 626.84, Subd. 1 (f).

4 MCAR § 13.006 Licensing of peace officers.

E. Students shall furnish the board proof of successful completion of one of the following approved first aid courses:

1. Red Cross advanced first aid;

2. Crash Injury Management (CIM); or

3. Emergency Medical Technician (EMT).

The first aid course shall be successfully completed prior to ~~termination of the prelicense probationary period.~~ the issuing of the license.

I. Upon successful completion of both portions of the peace officer licensing examination, a student shall be certified eligible for employment as a peace officer for a period of not more than one year. Any student who obtains employment as a peace officer shall be issued a license. ~~upon successful completion of a one year probationary period with a single agency. Notification of successful completion of the probationary period shall be furnished to the board by the appropriate appointing authority.~~

~~J. Any unlicensed peace officer who successfully completes a basic course pursuant to these rules and who successfully completed a one year probationary period with a single agency calculated from the date of successful completion of the basic course, shall be licensed as a peace officer by the board provided that the peace officer successfully completes the licensing examination within that period of time.~~

J. An individual elected or appointed to the position of peace officer in the State of Minnesota shall be granted a license upon successful completion of a basic course and successful completion of the peace officer licensing examination.

M. Any peace officer who is certified and employed in good standing in another state shall be eligible for licensing in Minnesota provided that he:

1. successfully completes a peace officer licensing examination pursuant to 4 MCAR § 13.006 K.; and

2. is employed within the State of Minnesota and complies with the provisions of 4 MCAR § 13.020 B.; ~~and~~

~~3. successfully completes a probationary period with a single agency of not less than one year.~~

ORH Exhibit No. 3
File No. Post-80-001-JL
Date 7-24-80

4 MCAR § 13.014 Provisional part-time officer/constable license.

A. An individual elected or appointed to the position of part-time officer or constable by a political subdivision shall be granted a provisional part-time officer/constable license.

B. Provisional license granted upon appointment:

1. Will expire six months after date of appointment unless the board receives notice of compliance with Minn. Stat. 626.8463 (a).

2. Will expire in 12 months unless the board receives notice of compliance with Minn. Stat. 626.8463 (b).

3. Will expire in 24 months unless the board receives notice of compliance with Minn. Stat. 626.8463 (c).

4. Upon receipt of notice of compliance with Minn. Stat. 626.8463 (a) to (c), the board shall issue a permanent part-time officer license to the part-time officer or shall issue a license to a constable valid for the constable's present and successive terms of office.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE Duane R. Harves,
CHIEF HEARING EXAMINER

In the matter of the Proposed Adoption of Rule Amendments of the Minnesota Board of Peace Officer Standards and Training Governing the Licensing of Peace Officers, Part-Time Officers and Constables

FINDINGS OF FACT

The above entitled matter came on for hearing before Duane R. Harves, chief hearing examiner of the State of Minnesota on the 24th day of July, 1980, in room 83 of the State Office Building, 435 Park Street, St. Paul, Minnesota 55155, at 9:00 a.m., after proper notice required by Minn. Stat. 15.0412 as amended by Laws of 1980, ch. 615 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having considered all of the evidence adduced and upon the records, files and proceedings herein, the board finds the following:

1. That the facts set forth in the report of the chief hearing examiner attached hereto are true and correct and adopted as are set forth fully herein.

2. That on August 11, 1980, the board adopted the proposed rule amendments cited below and they are true, correct and adopted as set forth fully herein.

3. 4 MCAR § 13.002 A. 22., 4 MCAR § 13.006 E., 4 MCAR § 13.006 I., 4 MCAR § 13.006 J., 4 MCAR § 13.006 M., and 4 MCAR § 13.014 A. - C. as amended.

STATE OF MINNESOTA
BOARD OF PEACE OFFICER
STANDARDS AND TRAINING

Mark K. Shields
EXECUTIVE DIRECTOR

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Sandra A. Haven, being first duly sworn, deposes and says that on the 1st day of August, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Official Record and Tape Report of the Chief Hearing Examiner POST-80-001-DH upon Mark K. Shields, Executive Director, Minnesota Board of Peace Officer Standards and Training by handing to and leaving the same with Phil Davis

Sandra A. Haven

Subscribed and sworn to before me
this 1st day of August, 1980.

Susan C. Wojcik

SUSAN C. WOJCIK
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires April 26, 1986

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE BOARD OF PEACE OFFICER STANDARDS AND TRAINING

In the Matter of the Proposed Amendments to Rules Relating to the Licensing of Peace Officers, Part-Time Officers and Constables.

REPORT OF THE CHIEF HEARING EXAMINER

The above-entitled matter came on for hearing before Duane R. Harves, Chief Hearing Examiner, on Thursday, July 24, 1980, at 9:00 a.m. in room 83 of the State Office Building, Wabasha Street and Park Avenue, St. Paul, Minnesota 55155, pursuant to an Order for Hearing dated June 3, 1980.

Richard D. Hodsdon, Special Assistant Attorney General, Criminal Division, 8th Floor, American Center Building, 160 E. Kellogg Boulevard, St. Paul, Minnesota, 55101, appeared as counsel for the Minnesota Board of Peace Officer Standards and Training (hereinafter "Board"). Appearing as witnesses for the Board were Mark K. Shields, Executive Director of the Minnesota Board of Peace Officer Standards and Training, and William R. Carter, III, Standards Coordinator for the Minnesota Board of Peace Officer Standards and Training.

This was a rule hearing conducted in accordance with Minn. Stat. Ch. 15 to determine whether the board has authority to adopt the proposed amendments to rules and whether the proposed amendments to rules are necessary and reasonable and may be adopted.

Approximately 15 persons appeared at the hearing, 12 of whom signed the hearing register. The hearing continued until all persons present had had an opportunity to be heard. The record remained open for five working days following the hearing, through Thursday, July 31, 1980, for the submission of written comments by interested parties. Twenty-one Board Exhibits (Nos. 1-21) were offered and received into evidence at the hearing. Four exhibits (A-D) were received into evidence by the Chief Hearing Examiner following the close of the hearing, two public written comments, and two comments from the Post Board.

Pursuant to Minn. Stat. § 15.0412, subd. 4d and 4c (Minn. Laws 1980, Ch. 615, §§ 6 and 7), this Report shall be available for review to all affected individuals upon request for at least five working days. Thereafter, the Board shall, if it proposes to adopt the rule as recommended herein, submit the rule, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Board makes substantial changes in the rule other than those recommended herein, it shall submit the rule with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to adopting it and submitting it to the Attorney General for review.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On June 3, 1980, pursuant to Rule 9 MCAR § 2.102, the Executive Director filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed amendments to rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Board's presentation.

2. On June 23, 1980, a Notice of Hearing and a copy of the proposed rules were published at 4 State Register 1971-73.

3. On June 18, 1980, the Executive Director mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On June 27, 1980, pursuant to Rule 9 MCAR § 2.105, the Executive Director filed the following documents with the Chief Hearing Examiner:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Statement of Need and Reasonableness.
(f) The names of Board personnel who will represent the Agency at the hearing.

As of June 27, 1980, the Board had not received any materials in response to publishing the Notice of Hearing and proposed amendments to rules at 4 State Register 1971-73, June 23, 1980.

5. On June 11, 1980, the Executive Director filed a document certifying that by Board resolution dated May 30, 1980, the Executive Director was authorized to call a hearing for the purpose of promulgating rules relating to standards of conduct and to perform all acts incidental thereto.

The documents were available for inspection at the Office of Administrative Hearings from the date of filing to the date of the hearing.

6. The record remained open through Thursday, July 31, 1980 for the receipt of written comments and statements.

Statutory Authority

7. As authority for the adoption of the proposed amendments to rules, the Executive Director cites Minn. Stat. §§ 626.84-.855 (1978 and Supp. 1979), as amended by Minn. Laws, 1980, Ch. 578. Pursuant to Minn. Stat. § 626.843(1)(d) (e) (1978), the Board has general rulemaking authority with respect to the minimum standards governing the selection, training and licensing of peace officers with the state:

Subdivision 1. The board shall adopt rules with respect to:

* * *

(d) Minimum standards of physical, mental and educational fitness which shall govern the recruitment and licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota highway patrol;

(e) Minimum standards of conduct which would affect the performance of the individual in his duties as peace officer...

Minn. Stat. § 626.8461 (Supp. 1979), provides that:

"[t]he legislature finds and declares that it is necessary to establish minimum training requirements for part-time officers in certain specified areas to maximize protection of the rights and safety of the public and to minimize liability on the part of Minnesota counties and municipalities."

Part-time officers are licensed by the Board. Minn. Laws 1980, Ch. 578, § 2 (to be codified at Minn. Stat. § 626.84(1)(f)). The Board necessarily has authority to adopt rules regarding minimum standards governing the selection, training, and licensing of part-time officers in the state. Minn. Stat. § 626.843(1)(j) (1978).

Rules adopted by the Board relating to training and selection of peace officers apply to constables on or after July 1, 1979. Minn. Stat. § 626.843(1a) (1978). Constables employed or elected after July 1, 1979 must be licensed by the Board to be eligible for permanent employment. Minn. Laws 1980, Ch. 578, § 1 (to be codified at Minn. Stat. § 367.41(1)). The Board necessarily has authority to adopt rules regarding minimum standards governing the selection, training, and licensing of constables in the state. Minn. Stat. §§ 726.823(1)(j), (1a) (1978).

Need and Reasonableness of Proposed Amendments to Rules

8. On April 15, 1980, the Minnesota Legislature passed what is now Minn. Laws 1980, Ch. 578, effective upon final enactment, which provides that "no individual employed or acting as an agent of any political subdivision shall be authorized to carry a firearm when on duty unless the individual has been licensed pursuant to sections 626.84 to 626.855." Rules currently in effect governing the selection, training, and licensing of peace officrs provide for a one-year probationary period prior to licensing. 4 MCAR § 13.006 (1978). The effect of the 1980 law when read in conjunction with current Board rules is to prohibit first-year police officers from carrying firearms.

Part-time officers filling a part-time position which existed between January 1, 1978 and May 31, 1979, owing to the death, termination, or failure of the incumbent to satisfy minimum selection, training, and licensing requirements may be licensed on completion of a three-step screening process that may take as long as two years. Minn. Laws 1980, Ch. 578, § 5 (to be codified at Minn. Stat. § 626.8463). In the absence of a Board rule permitting provisional licensure of this class of part-time officers, the effect of the 1980 enactment is to prohibit this class of part-time officers from carrying firearms until licensed, which may take as long as two years after initial employment or appointment.

Constables employed or elected on or after July 1, 1979 must be licensed in accordance with the same three-step screening process to be eligible for permanent employment. Minn. Laws 1980. Ch. 578, § 1. In the absence of a Board rule permitting provisional licensure of constables, the effect of the 1980 enactment is to prohibit constables from carrying firearms until licensed which may take as long as two years after initial employment or election.

9. As a result of the 1980 enactment, amendments to Board rules are necessary to reinstate the authority to carry firearms for the class of fully trained first-year officers and those part-time officers and constables who are in the process of completing training requirements. Proposed amendments

to rules promulgated in response to the 1980 enactment by the Executive Director of the Minnesota Board of Peace Officer Standards and Training are discussed in Findings 10 through 17 below.

10. As a result of legislation enacted in 1979 and amended by the 1980 enactment, a statutory distinction now exists beween the terms "peace officer" and "part-time officer". Minn. Laws 1980, Ch. 578, § 2 (to be codified at Minn. Stat. § 626.84(1)(f)). Proposed Rule 4 MCAR § 13.002 A.22. incorporates by reference the statutory definition of "part-time officer". Reference to the statutory definition is necessary and reasonable to clarify the term "part-time officer" as employed in proposed Rule 4 MCAR § 13.014 and is crucial to the ability of persons affected by the Rule to comprehend its meaning and effect.

11. First aid is a required skill for basic police training. 4 MCAR § 13.003 A.2.h. (1978). Rule 4 MCAR § 13.006 E. (1978) requires that first aid coursework be successfully completed prior to termination of a one-year prelicense probationary period. As a result of the 1980 enactment, elimination of the one-year probationary period as a prerequisite to licensing is necessary to reinstate the authority of first-year peace officers to carry firearms. The proposed amendment to Rule 4 MCAR § 13.006 E. (1978), eliminates the one-year probationary period as a prerequisite to licensing. The effect of the proposed rule amendment is to require that first aid training be completed as much as a year earlier than under the present Rule, a reasonable requirement that will serve to enhance public safety. With the adoption of the proposed amendmnent to 4 MCAR § 13.006 E, basic skills training will be completed prior to licensing.

12. Rule 4 MCAR § 13.006 I. governs the licensing of individuals who enter the law enforcement profession after passing a Board academic licensing examination following two years of post-secondary law enforcement education, and after passing a Board skills licensing examination on completion of eight weeks of skills training. The proposed amendment to 4 MCAR § 13.006 I. (1978) would eliminate the one-year probationary period as a prerequisite to licensing these peace officers. Thus, students completing academic and skill licensing examinations will be eligible for employment as a peace officer. Any student who then obtains employment as a peace officer will be licensed.

The elimination of the one-year probationary period as a prerequisite to licensing is necessary to reinstate the authority of first-year peace officers to carry firearms. The rule amendment does not alter the requirement that academic and skills training be completed prior to employment as a peace officer and is, therefore, reasonable.

13. Rule 4 MCAR § 13.006 J. (1978) governs the licensing of those individuals who enter the law enforcement profession through completion of a basic course. The proposed rule amendment to 4 MCAR § 13.006 J. (1978) would eliminate the one-year probationary period as a prerequisite to licensing police officers. Thus, the individual elected or appointed to the position of peace officer will be licensed on completion of the basic course and successful completion of the peace officer licensing examination.

The elimination of the one-year probationary period as a prerequisite to licensing is necessary to reinstate the authority of first-year peace officers to carry firearms. The amendment to Rule 4 MCAR § 13.006 J. (1978) does not

alter the requirements that the basic course and peace officer licensing examination be successfully completed prior to licensing. The proposed rule is, therefore, reasonable.

14. Rule 4 MCAR § 13.006 M. (1978) governs the licensing requirements of peace officers certified and employed in good standing in another state who seek employment as a peace officer in Minnesota. The proposed amendment to Rule 4 MCAR § 13.006 M. (1978) would eliminate the one-year probationary period as a prerequisite to licensing in Minnesota. Thus, the peace officer certified and employed in good standing in another state must successfully complete a peace officer licensing examination and comply with minimum selection standards prior to obtaining a license.

The elimination of the one-year probationary period as a prerequisite to licensing is necessary to reinstate the authority to carry firearms for those peace officers from other states who have obtained employment as a peace officer in Minnesota and are in their first year of duty. The proposed amendment to Rule MCAR § 13.006 M. (1978) does not alter the requirements of successful completion of the peace officer licensing examination or compliance with minimum selection standards. Therefore, the proposed rule amendment is reasonable.

15. Proposed Rule 4 MCAR § 13.014 provides for the licensing requirements of constables and those part-time officers who filled an existing part-time position between January 1, 1978 and May 31, 1979, owing to the death, termination or failure of the incumbent to satisfy minimum selection, training and licensing requirements. As a result of the 1980 enactment, constables and this class of part-time officers may not be licensed until completion of a three-step screening process in satisfaction of minimum selection, training, and licensing requirements.

In the absence of a rule permitting provisional licensure, constables and this class of part-time officers will not be authorized to carry firearms while completing their licensing requirements, a process that may take as long as two years. To deny the authorized use of firearms to this class of part-time peace officers and constables for as long as two years would cause hardship in the many communities that rely heavily on their services. Provisional licensure is necessary to allow this class of part-time officers and constables to function in their full capacity while they complete the training process. The provisional license expires automatically if minimum selection, training, and licensing requirements are not satisfied within prescribed time periods. Proposed Rule 4 MCAR § 13.014 creating provisional licensure is a necessary and reasonable measure to ensure compliance with the 1980 enactment. The Chief Hearing Examiner, however, recommends adoption of 4 MCAR § 13.014 only on condition that the clarifying language set forth in Finding 16 below be incorporated.

16. During the hearing, the Chief Hearing Examiner questioned whether proosed Rule 4 MCAR § 13.014 clearly distinguished § 626.8463 part-time officers for whom the rule was tailored from the class of § 626.8464 "new part-time officers". "New part-time officers" are required to meet the training and licensing requirements in effect for full-time peace officers. The Chief Hearing Examiner asked the Executive Director to submit clarifying language that would address this statutory distinction.

On July 25, 1980, the Executive Director submitted the following clarifying amendment to proposed Rule 4 MCAR § 13.014:

> This rule applies to individuals appointed to a position of part-time officer pursuant to the procedures set forth in Minn. Stat. § 626.8463. This rule shall not apply to individuals appointed pursuant to the authority of Minn. Stat. § 626.8464 and said individuals shall meet the training and licensing requirements set forth in 4 MCAR § 13.006.

The Chief Hearing Examiner approves the substance of the Executive Director's amendment to proposed Rule 4 MCAR § 13.014 but recommends incorporation of the following clarifying language instead:

> C. This rule applies to individuals appointed or elected to the position of part-time officer pursuant to Minn. Stat. § 626.8463. This rule shall not apply to individuals appointed pursuant to Minn. Stat. § 626.8464.

Citing to the requirements of 4 MCAR § 13.006 is unnecessary as it adds nothing to the Rule and might unnecessarily limit the Board in the future.

17. A letter written by Frank S. Childs on July 3, 1980 (Ex. No. 19), critizes the rule implementing the § 626.8463 process of phasing part-time peace officers' and constables' compliance with requirements for selection, training and licensing. Mr. Childs recommended that no part-time officer be employed nor any [provisional] licenses be issued until completion of training requirements at 12 months. "Under the proposed rules . . . he has 12 months to complete firearm training, how is he to know when and how to use his weapon untill [sic] he completes training?" writes Mr. Childs (Ex. No. 19 at 2).

Section 626.8463(b) clearly provides that part-time officers may complete their skills training within 12 months of their appointment. The provisional licensure of § 626.8463 part-time officers and constables is a necessary and reasonable exercise of rulemaking authority. Mr. Childs' fundamental objection is with provisions of the 1980 enactment, not with the implementing rules.

C O N C L U S I O N S

1. Rule 9 MCAR § 2.102 B.3. (1978) requires that the Order for Hearing proposed to be issued and filed with the Chief Hearing Examiner or his designee to initiate a hearing contain:

> The signature of the person authorized to order a hearing. If a board is ordering the hearing, the person signing the Order must be so authorized and a document of authority must be attached to the Order for Hearing.

The Executive Director signed and filed the Order for Hearing proposed to be issued on June 3, 1980 for the purpose of initiating a hearing. The Executive Director was duly authorized by the Board to call for a hearing on May 30, 1980. Documentation of the Executive Director's authority was filed with the Chief Hearing Examiner on June 11, 1980.

The Board has substantially complied with the procedural requirements of 9 MCAR § 2.102 B. (1978).

2. The Board gave due, timely and adequate legal notice of the hearing.

3. The Board has documented its statutory authority to promulgate the proposed rules.

4. The Board has fulfilled all relevant, substantive and procedural requirements of law or rule.

5. The Board has demonstrated the need for and reasonableness of the proposed amendments to its rules by an affirmative presentation of facts.

Based upon the foregoing Conclusions, the Chief Hearing Examiner makes the following:

RECOMMENDATION

That the Rules, as recommended to be clarified in this Report, be adopted.

Dated this 1st day of August, 1980.

DUANE R. HARVES
Chief Hearing Examiner

STATEMENT OF NEED AND REASONABLENESS
REGARDING PROPOSED PERMANENT RULES
OF THE MINNESOTA BOARD OF PEACE
OFFICER STANDARDS AND TRAINING

The Minnesota Board of Peace Officer Standards and Training was created pursuant to Minn. Stat. §626.84 et seq., and is authorized to promulgate rules and standards relating to the selection, training and licensing of peace officers in the State of Minnesota.

The following amendments to existing board rules are proposed in conformity with authority granted in that enabling legislation.

4 MCAR §13.002 Construction of terms 22

It is necessary to show in the rules that a statutory distinction between the terms peace officer and part-time peace officer now exists as a result of the recently passed Minn. Stat. §626.84 Subd. 1 (f). This distinction must be shown in the definition section of the rules to clarify the term part-time peace officer as employed in the proposed rule addition 4 MCAR §13.014.

4 MCAR §13.006 E

First-aid is considered to be part of basic police training [4 MCAR §13.003 A.(2)]. When an officer is hired subsequent to completion of his/her basic police training, it is assumed that all training requirements have been met prior to the issuance of a license.

As the rule is presently written, training in first-aid may be undertaken during the probationary year. Because proposed changes in 4 MCAR §§13.006 I and 13.006 J would eliminate the probationary year for licensing, it is necessary to change the wording of this rule to make it consistent with the proposed changes in 4 MCAR §§13.006 I and 13.006 J which will effectively eliminate the probationary period as a prerequisite to licensing.

4 MCAR §13.006 I

Minn. Stat. §626.84 Subd. 2 is a 1980 change in the law which, when interpreted according to current POST Board rules, has an important

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effect on the manner in which law enforcement agencies may utilize their officers. The new law states that only licensed peace officers may carry a firearm.

The issuance of the license itself in no way enhances or changes an individual's capacity to function as a peace officer. The effect of the new law, Minn. Stat. §626.84 Subd. 2, when read with current board rules, is to deny police and sheriff's departments the utilization of services of first year officers. The result of this has been to create a large number of officers - i.e. those who are presently in their first year of service and carrying a firearm - who are, at present, operating illegally, in spite of the fact that these officers are fully trained.

Current training requirements for individuals aspiring to enter the law enforcement profession can be briefly outlined in the following steps:

1. Individual completes a 2-year law enforcement program at a POST-certified college or vocational-technical institute.
2. Individual passes the POST academic licensing examination.
3. Individual completes an 8-week skills course.
4. Individual passes the POST skills licensing examination.
5. Individual secures employment as a peace officer.
6. Individual is granted a license upon completion of one full year with a single law enforcement agency.

4 MCAR §13.006 I in its amended form will eliminate the sixth step in the process outlined above.

When this rule was written, five reasons were given for requiring a year of probation before issuing a license to an individual officer. The reasons were:

1. Need for adequate time to evaluate performance.
2. Need for adequate time for officer to learn local ordinances and agency rules.
3. Need for adequate time to evaluate officer's ability to withstand stress.

4. Need for officer to decide whether or not he wished to remain in law enforcement.
5. Need to evaluate officer's ability to function successfully in the community where he works.

At that time, the POST Board was relying on traditional hiring criteria in establishing its licensing requirements. After two years of experience in licensing new peace officers, none of these reasons are valid, in the judgement of the board, as licensing concerns. All five reasons remain valid as concerns of the local hiring agency, however, and the proposal to eliminate the probationary period for licensing in no way interferes with the authority of local civil services to impose their own probationary requirements.

The proposed change in this rule is necessary and reasonable to correct earlier defects in the rule itself and to bring it into conformity with existing practices and with the 1980 law that prohibits unlicensed peace officers to carry a firearm.

4 MCAR §13.006 J

The reason for the proposed change in this rule is basically the same as that for 4 MCAR §13.006 I. This rule covers the case of certain individuals who enter the law enforcement profession through a basic training type course. This route to law enforcement is becoming increasingly obsolete in Minnesota because of the current emphasis on academic training. In any case, the probationary period and licensing requirements established in this rule and in 4 MCAR §13.006 I are the same regardless of what kind of training an individual officer has had. It is therefore necessary to alter this rule to bring it into conformity with 4 MCAR §13.006 I for the reasons discussed.

4 MCAR §13.006 M

The reason for the proposed change is basically the same as that for 4 MCAR §§13.006 I and 13.006 J. The probationary period and licensing requirements for individuals in this category are the same as those in 4 MCAR §13.006 regardless of what kind of training an individual has

had. It is necessary to alter the wording of this rule to bring it into conformity with 4 MCAR §§ 13.006 I and 13.006 J for the reasons discussed.

4 MCAR §13.014

The Minnesota Peace Officer Standards and Training Board has the authority to license part-time peace officers pursuant to Minn. Stat. §§626.845 (d) and 626.8463.

The board also has the authority to license constables in Minnesota as set forth in Minn. Stat. §626.845 Subd. 2.

It is therefore necessary to establish procedures by which the board can comply with these statutes.

At present, a part-time peace officer or constable can receive a license only after completing a three-step training and screening process that may take up to two years to complete. This process is detailed in Minn. Stat. §§ 626.8461-626.8466.

A provisional license should be granted to part-time peace officers and constables so that these officers may function in their full capacity while they are completing the training process. Minn. Stat. §626.84 Subd. 2 states that only licensed peace officers may carry a firearm. An inconsistency exists in the law, since at present, part-time officers and constables are not granted a license until the 24-month training process is complete.

To deny the statutorily authorized use of firearms to part-time peace officers and constables for up to two years would cause widespread hardship throughout the state, since many communities rely heavily on the services of these individuals. There are presently 700 part-time peace officers and 200 constables in Minnesota.

The creation of a special licensing category is necessary and reasonable to correct inconsistencies in, and to ensure compliance with, the law.

While guaranteeing part-time peace officers and constables the power to carry a firearm, the provisional license has at the same time a built-in mechanism for ensuring compliance with the training process, since licenses will immediately expire if training deadlines as set forth in Minn. Stat. §626.8463 are not met. The proposed procedure is administratively simple and effective.

WITNESSES AND SUMMARY OF TESTIMONY

In support of the proposed amended Rules and the Statement of Need and Reasonableness, the Peace Officer Standards and Training Board will introduce testimony explaining the legislative authorization for these amendments and the need for the amended Rules.

We may call on one or more of the following expert witnesses to testify:

Mark K. Shields, Executive Director, POST Board

Mr. Shields will review the history of the POST Board, outline POST's enabling legislation, and testify to the need and reasonableness of the proposed rule amendments.

Mr. William R. Carter, III, Standards Coordinator, POST Board

Mr. Carter will testify to the need and reasonableness of the proposed rule amendments.

EXHIBITS, STATUTES AND RULES

The Board intends to introduce the following evidence:

Minn. Stat. § 626.84 (1980 supp.) et seq.
4 MCAR §§ 13.001 - 13.020
Minn. Stat. 367.40 (1980) et seq.

5 MCAR § 2.0902 D. "Schools located outside Minnesota which offer programs or courses within Minnesota" in Minn. Stat. § 136A.63 means: schools located outside Minnesota which offer any ~~course,~~ program or educational activity which is available to residents of Minnesota and which does not require them to leave the state for the ~~completion~~ major portion of such;

Chapter Ten: 5 MCAR §§ 2.1001-2.1008

5 MCAR § 2.1001 Purpose. The purpose of this chapter is to augment ~~Laws of 1977, ch. 447, Article 5, § 11, to be codified as~~ Minn. Stat. § 136A.236, establishing a state program of tuition subsidies for students in attendance at Minnesota area vocational-technical institutes by providing standards, criteria, rules, and regulations therefor.

5 MCAR § 2.1002 B. "Eligible student" shall be any student:

1. who is granted admission to and enrolled in good standing or accepted for enrollment in an eligible institution at the time of application to the tuition subsidy program;

~~2. who is under 21 years of age at the time of application to the tuition subsidy program;~~

~~3. who is under 21 years of age for some portion of the fiscal year during which the tuition subsidy will be utilized;~~

2.4. who qualifies for payment of resident tuition at the eligible institution pursuant to the then-current State Board of Education rules pertaining to vocational-technical education (those qualifying for resident tuition reciprocity agreements are not eligible) and,

3.5. ~~who is not receiving~~ who has not been awarded a Minnesota State Scholarship or Grant-in-Aid for the period of attendance for which the tuition subsidy has been awarded.

5 MCAR § 2.1002 C. "Educational costs" shall include tuition and ~~processing~~ required fees, room and board, books and miscellaneous expenses as ~~applicable for each educational program as approved by the Board in an annual budget survey of all eligible institutions.~~ defined on a nine month basis in 5 MCAR § 2.0102 E., prorated on a monthly basis for the actual number of months in the student's academic program for the fiscal year.

K. "Uniform methodology" is a nationally recognized standard, established by the United States Department of Education, which provides educational institutions with a uniform and systematic method of determining an applicant's need for financial assistance from various financial aid programs.

5 MCAR § 2.1003 F. ~~Payment of tuition may be deferred~~ The student may defer tuition payment during the application process. Applicants receiving tuition subsidy shall be responsible, upon notification of such subsidies, for all tuition which accrued during the application process and which is not subsidized by the subsidy. Applicants not receiving tuition subsidies may, upon notification of denial, promptly withdraw from the eligible institution and be forgiven all tuition which accrued during the application process. Applicants not receiving tuition subsidies who choose not to withdraw from the eligible institution shall be responsible for all tuition which accrued during the application process.

G. Recipients of tuition subsidies who subsequently receive ~~payment of~~ a Minnesota State Scholarship or Grant in Aid award for the same period of attendance for which the tuition subsidy was awarded shall be responsible for reimbursing the eligible institution for all tuition subsidized through the tuition subsidy program. Recipients of a Minnesota State Scholarship or Grant-in-Aid are eligible for tuition subsidies only for enrollment periods in their educational programs which do not coincide or overlap with the period for which they have been awarded a Minnesota State Scholarship or Grant-in-Aid.

5 MCAR § 2.1004 A. The determination of family contribution shall be made, subject to review and approval of the board, by a nationally recognized student financial assistance service utilizing ~~either~~ a uniform methodology~~,~~. ~~including that approved by the United States Office of Education, or the Basic Educational Opportunity Grant needs analysis.~~

Peace Officer Standards and Training Board

Proposed Amendments to Rules Relating to the Licensing of Peace Officers, Part-time Officers and Constables

Notice of Hearing

A public hearing concerning the proposed rule amendments will be held at the State Office Building, 435 Park Street, Room 83, Saint Paul, Minnesota, on Thursday, July 24, 1980, commencing at 9:00 a.m. The proposed rule amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendments, you are urged to participate in the rule hearing process.

Following the presentation of the Peace Officer Standards and Training Board (POST) at the hearing, all interested (or affected) persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or materials may be submitted to Jon Lunde, Office of the Hearing Examiners, 1745 University Avenue, Room 300, Saint Paul,

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Minnesota 55104, (612) 296-6910, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the POST Board and at the Office of the Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

The proposed rule amendments would eliminate the prelicense probationary period for peace officers and would allow provisional licenses to be issued to part-time officers and constables.

The POST Board's authority to promulgate the proposed rule amendments is contained in Minn. Stat. §§ 626.84 to 626.855 (1980).

The agency estimates that there will be no cost to local public bodies in the state to implement the amendments immediately following their adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rule amendments are now available, and one free copy may be obtained by writing POST Board, 500 Metro Square Building, Saint Paul, Minnesota 55101, telephone (612) 296-2620. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule amendments, contact the POST Board.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spend more than five hours in any month or more than $250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

June 3, 1980

Mark K. Shields
Executive Director

Amendments as Proposed

4 MCAR § 13.002 Construction of terms.

A. Definitions. For the purpose of these rules the words, terms and phrases shall have the meanings hereafter given them, unless another intention clearly appears.

22. Part-time officer: as defined in Minn. Stat. § 626.84, Subd. 1 (f).

4 MCAR § 13.006 Licensing of peace officers.

E. Students shall furnish the board proof of successful completion of one of the following approved first aid courses:

1. Red Cross advanced first aid;
2. Crash Injury Management (CIM); or
3. Emergency Medical Technician (EMT).

The first aid course shall be successfully completed prior to ~~termination of the prelicense probationary period.~~ the issuing of the license.

I. Upon successful completion of both portions of the peace officer licensing examination, a student shall be certified eligible for employment as a peace officer for a period of not more than one year. Any student who obtains employment as a peace officer shall be issued a license. ~~upon successful completion of a one-year probationary period with a single agency. Notification of successful completion of the probationary period shall be furnished to the board by the appropriate appointing authority.~~

~~J. Any unlicensed peace officer who successfully completes a basic course pursuant to these rules and who successfully completed a one-year probationary period with a single agency calculated from the date of successful completion of the basic course, shall be licensed as a peace officer by the board provided that the peace officer successfully completes the licensing examination within that period of time.~~

J. An individual elected or appointed to the position of peace officer in the State of Minnesota shall be granted a license upon successful completion of a basic course and successful completion of the peace officer licensing examination.

M. Any peace officer who is certified and employed in good

standing in another state shall be eligible for licensing in Minnesota provided that he:

1. successfully completes a peace officer licensing examination pursuant to 4 MCAR § 13.006 K.; and

2. is employed within the State of Minnesota and complies with the provisions of 4 MCAR 13.020 B.; ~~and~~

~~3. successfully completes a probationary period with a single agency of not less than one year.~~

4 MCAR § 13.014 Provisional part-time officer/constable license.

A. An individual elected or appointed to the position of part-time officer or constable by a political subdivision shall be granted a provisional part-time officer/constable license.

B. Provisional license granted upon appointment:

1. Will expire six months after date of appointment unless the board receives notice of compliance with Minn. Stat. 626.8463 (a).

2. Will expire in 12 months unless the board receives notice of compliance with Minn. Stat. 626.8463 (b).

3. Will expire in 24 months unless the board receives notice of compliance with Minn. Stat. 626.8463 (c).

4. Upon receipt of notice of compliance with Minn. Stat. 626.8463 (a) to (c), the board shall issue a permanent part-time officer license to the part-time officer or shall issue a license to a constable valid for the constable's present and successive terms of office.

Department of Public Welfare
Mental Retardation Division

Proposed Amendments to Rule 12 MCAR § 2.185 which Governs the Planning and Provision of Services to Mentally Retarded People by Community Mental Health, County Welfare and Human Service Boards

Notice of Hearing

A public hearing concerning the proposed amendments to 12 MCAR § 2.185 will be held at Conference Room D, Veterans Service Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota, on Monday, July 28, 1980, commencing at 9:00 a.m. The proposed amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendments, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Richard Luis, Hearing Examiner, 1745 University Avenue, Room 300, St. Paul, MN 55104 (612) 296-8114, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed and amended rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

The provisions of the current rule establish standards for the planning and provision of services to mentally retarded people by Community Mental Health, County Welfare and Human Service Boards in Minnesota. Financial resources available to these local agencies shall be expended in accordance with Rule 185 (12 MCAR § 2.185) standards, but the rule does not require expenditure of money not available to the agencies for mental retardation (MR) services.

The rule includes a section which defines terms used in the rule, establishes standards for the provision of services that includes normalizing life experiences, placement in the least restrictive alternatives, provision of developmental opportunities. Standards also include the development of an individual service plan based on assessment of need, provision of support services in the home and community. When placement in a residential facility is needed to accomplish individual goals, placement in a state hospital is authorized when the person cannot be served at home or in a community residential facility.

The rule assigns certain responsibilities to local social service agencies (County Welfare or Human Service Boards), and community mental health agencies (Community Mental Health Boards or Human Service Boards):

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(b) Whether the applicant can demonstrate the ability to provide adequate medical direction as well as the toxicological and related professional and technical resources needed for poison information services;

(c) Whether the applicant can demonstrate the ability to provide appropriate public education and professional education services; and

(d) Whether the applicant can demonstrate the ability to provide poison information services in a financially sound and cost effective manner.

Subd. 5. Interstate agreements. The grantee may enter into agreements with comparable entities in other states to share data and technical resources. Agreements shall be in writing and shall be subject to the prior approval of the commissioner of health. The commissioner may approve the contracts only if they will provide for better public access to cost effective poison information services.

Subd. 6. Reports; monitoring; termination. The grantee selected shall report quarterly to the commissioner of health, on a form provided by the commissioner, information about programmatic and fiscal performance and status. All relevant records and the performance of the grantee shall be monitored by the commissioner for purposes of assuring that the grantee continues to fulfill the criteria specified in subdivision 3. Should the commissioner at any time find that a grantee is not continuing to fulfill the criteria specified in subdivision 3, he may terminate the grant upon 30 days notice.

Sec. 2. **Appropriation.** The sum of $125,000 is appropriated from the general fund to the commissioner of health for the Minnesota poison information center, to be available until June 30, 1981.

Sec. 3. **Effective date.** Sections 1 and 2 are effective the day following final enactment.

Approved April 15, 1980.

PEACE OFFICERS AND SECURITY GUARDS—TRAINING AND IDENTIFICATION

CHAPTER 578

S.F.No.364

An Act relating to peace officers, part-time officers and constables; providing for the training of part-time officers and constables; requiring uniform colors and identification for law enforcement motor vehicles and uniforms of peace officers and security guards; amending Minnesota Statutes 1978, Sections 169.98; 326.337, Subdivision 1; 367.41, Subdivision 1; 626.846, Subdivisions 1 and 2; 626.851, Subdivision 1; 626.852; and Minnesota Statutes, 1979 Supplement, Sections 626.84; 626.8463; 626.8464; and repealing Minnesota Statutes 1978, Sections 367.41, Subdivision 3; and 626.846, Subdivisions 1a, 3a, 4, and 5; and Minnesota Statutes, 1979 Supplement, Sections 367.41, Subdivision 2; and 626.8467.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1978, Section 367.41, Subdivision 1, is amended to read:

367.41 Constables and peace officer licensing requirements; deputy constables, requirements

Subdivision 1. Notwithstanding any general or local law or charter to the contrary, any constable employed or elected on or after July 1, 1979, by any

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political subdivision of the state of Minnesota shall not be eligible for permanent appointment without being licensed by the Minnesota board of peace officer standards and training pursuant to section 626.8463, clauses (a) to (c).

Sec. 2. Minnesota Statutes, 1979 Supplement, Section 626.84, is amended to read:

626.84 Definitions and scope

Subdivision 1. Definitions. For the purposes of section 626.84 to 626.855, the following terms shall have the meanings given them:

(a) "Board" means the Minnesota board of peace officer standards and training;

(b) "Director" means the executive director of the board;

(c) "Peace officer" means an employee of a political subdivision or state law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota highway patrol and state conservation officers.

(d) "Constable" shall have the meaning assigned to it in section 367.40.

(e) "Deputy constable" shall have the meaning assigned to it in section 367.40.

(f) "Part-time officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency.

(g) "Reserve officer" means an individual whose services are utilized by a law enforcement agency for purposes including, but not limited to, providing supplementary assistance at special events, traffic or crowd control, or administrative or clerical assistance; provided that the individual's duties do not include enforcement of the general criminal laws of the state unless accompanied by a licensed peace officer; further provided that the individual does not have full powers of arrest or authorization to carry a firearm on duty. The term shall apply even though the individual receives no compensation and irrespective of the number of hours worked by, or the title conferred upon, the individual by any law enforcement agency.

Subd. 2. Scope. Notwithstanding sections 12.03, subdivision 4, 12.25, or any other law to the contrary, no individual employed or acting as an agent of any political subdivision shall be authorized to carry a firearm when on duty unless the individual has been licensed pursuant to sections 626.84 to 626.855. Nothing herein shall be construed as requiring licensure of a security guard as that term is defined in section 626.88, subdivision 1, clause (c).

Sec. 3. Minnesota Statutes 1978, Section 626.846, Subdivision 1, is amended to read:

626.846 Attendance, forfeiture of position

Subdivision 1. Notwithstanding any general or local law or charter to the contrary, any peace officer or part-time officer employed or elected on or after July 1, 1979, by any state, county, municipality or joint or contractual combination thereof of the state of Minnesota shall not be eligible for permanent appointment without being licensed by the board pursuant to sections 626.84 to 626.855.

Sec. 4. Minnesota Statutes 3978, Section 626.846, Subdivision 2, is amended to read:

Subd. 2. Every peace officer or part-time officer who shall be appointed

of the state of Minnesota on a temporary basis or for a probationary term, shall forfeit his position unless he has been licensed by the board pursuant to sections 626.841 to 626.855. Any other peace officer or part-time officer employed or elected by any state, county, municipality or joint or contractual combination thereof, may attend peace officer training courses and be licensed by the board pursuant to sections 626.84 to 626.855.

Sec. 5. Minnesota Statutes, 1979 Supplement, Section 626.8463, is amended to read:

626.8463 Part-time officers

Any individual appointed or employed as a part-time officer to a position which was filled by a part-time officer between January 1, 1978 and May 31, 1979 owing to the death, termination, or failure of the incumbent to comply with the requirements of this section shall provide proof to the board that:

(a) Within six months of his appointment he has satisfied the selection standards of the board then in effect. The board shall grant a reasonable extension of time to show satisfaction of selection standards to any law enforcement agency that demonstrates that satisfaction of selection standards within six months would impose financial hardship;

(b) Within 12 months of his appointment he has successfully completed a board certified course, or a professionally recognized program, in first aid, and, if authorized to carry a firearm on duty, firearms training, including legal limitations on the justifiable use of deadly force;

(c) Within 24 months of his appointment he has successfully passed a board part-time officer licensing examination.

A law enforcement agency may designate personnel as part-time officer replacements who shall be subject to the training requirements of this section notwithstanding the fact that the personnel are appointed to positions which were not filled by part-time officers between January 1, 1978 and May 31, 1979. Provided that the number of personnel so designated shall not exceed a number equal to two or ten percent of the positions filled by part-time officers between January 1, 1978 and May 31, 1979, rounded to the next highest whole number, whichever is greater.

Sec. 6. Minnesota Statutes 1978, Section 626.851, Subdivision 1, is amended to read:

626.851 Eligibility of officers

Subdivision 1. Any peace officer or part-time officer employed or elected by any county or municipality of the state of Minnesota shall be eligible to attend training courses as herein provided in accordance with the rules of the board.

Sec. 7. Minnesota Statutes, 1979 Supplement, Section 626.8464, is amended to read:

626.8464 New part-time positions

Except as otherwise provided in section 626.8463, any individual appointed or employed as a part-time officer to a position which was not filled by a part-time officer between January 1, 1978 and May 31, 1979 shall meet the training and licensing requirements of the board then in effect for full-time peace officers.

Sec. 8. Minnesota Statutes 1978, Section 626.852, is amended to read:

626.852 Tuition; salary and expenses

No tuition shall be charged any peace officer or part-time officer for attending any training school herein provided for, and each officer when assigned

imbursed by the governing body of the governmental unit or combination of governmental units from which elected or by which employed for his cost of meals, travel, and lodgings while in attendance at the police school, not to exceed similar allowance for state employees.

Sec. 9.

326.88 Uniforms; peace officers, security guards; color

Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Peace officer" means an employee of a political subdivision or state law enforcement agency who is licensed pursuant to sections 626.84 to 626.855 charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has full power of arrest, and shall also include Minnesota highway patrolmen, state conservation officers, park police, constables, and University of Minnesota police officers.

(c) "Security guard" means any person who is paid a fee, wage or salary to perform one or more of the following functions:

(1) Prevention or detection of intrusion, unauthorized entry or activity, vandalism or trespass on private property;

(2) Prevention or detection of theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;

(3) Control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;

(4) Protection of individuals from bodily harm; or

(5) Enforcement of policies and rules of his employer related to crime reduction insofar as such enforcement falls within the scope of his duties.

The term "security guard" does not include: (i) auditors, accountants, and counting personnel performing audits or accounting functions; (ii) employees of a firm licensed pursuant to section 326.331 whose duties are primarily administrative or clerical in nature; (iii) unarmed watchmen; (iv) personnel temporarily employed pursuant to statute or ordinance by political subdivisions to provide protective services at social functions; (v) employees of air or rail carriers.

Subd. 2. Uniforms. Uniforms for peace officers shall be of uniform colors throughout the state as provided herein. Uniforms for:

a) Municipal peace officers, including University of Minnesota peace officers, constables, and peace officers assigned to patrol duties in parks, shall be blue, brown or green;

b) Peace officers who are members of the county sheriffs' office shall be tan, brown or green;

c) Highway patrolmen shall be maroon;

d) Conservation officers shall be green.

The uniforms of security guards may be any color other than those specified for peace officers.

This subdivision shall apply to uniforms purchased subsequent to January 1, 1981.

Sec. 10. Minnesota Statutes 1978, Section 169.98, is amended to read:

169.98 Police or patrol vehicles; security guard vehicles; markings and colors

Subdivision 1. Except as provided in subdivision 2, all motor vehicles which are primarily used in the enforcement of highway traffic regulations

by the highway patrol or for general uniform patrol assignment by any municipal police department or other law enforcement agency, except conservation officers, shall have uniform colors and markings as provided herein. Motor vehicles of:

(a) Municipal police departments, including the University of Minnesota police department and park police units, and constables shall be predominantly blue, brown, green or white;

(b) The highway patrol shall be predominantly maroon; and

(c) The county sheriffs' office shall be predominantly brown or white.

The identity of the governmental unit operating the vehicle shall be displayed on both front door panels and on the rear of the vehicle. The identity may be in the form of a shield or emblem, or may be the word "police", "sheriff", or the words "state patrol" or "conservation officer", as appropriate, with letters not less than two and one-half inches high, one inch wide and of a three-eights inch brush stroke. The identity shall be of a color contrasting with the background color so that the motor vehicle is easily identifiable as belonging to a specific type of law enforcement agency. Each vehicle shall be marked with its own identifying number on the rear of the vehicle. The number shall be printed in the same size and color required pursuant to this subdivision for identifying words which may be displayed on the vehicle.

Subd. 2. The commissioner of public safety may authorize the use of specially marked highway patrol vehicles, that have only a marking composed of a shield on the right door with the words inscribed thereon "Minnesota State Patrol" for primary use in the enforcement of highway traffic regulations when in his judgment the use of specially marked highway patrol vehicles will contribute to the safety of the traveling public. The number of such specially marked highway patrol vehicles used in the enforcement of highway traffic regulations shall not exceed 10 percent of the total number of highway patrol vehicles used in traffic law enforcement. All specially marked highway patrol vehicles shall be operated by uniformed members of the highway patrol and so equipped and operated as to clearly indicate to the driver of a car which is signaled to stop that the specially marked highway patrol vehicle is being operated by the highway patrol.

Subd. 3. All motor vehicles which are used by security guards in the course of their employment may have any color other than those specified in subdivision 1 for law enforcement vehicles. The identity of the security service shall be displayed on the motor vehicle as required for law enforcement vehicles.

Subd. 4. Subdivisions 1 to 3 shall apply to those motor vehicles purchased subsequent to January 1, 1981.

Sec. 11. Minnesota Statutes 1978, Section 326.337, Subdivision 1, is amended to read:

326.337 Violations; penalty

Subdivision 1. It is unlawful for the holder of a license knowingly to commit any of the following acts within or without the state of Minnesota: To incite, encourage, or aid in the incitement or encouragement of any person who has become a party to any strike to do unlawful acts or to incite, stir up, create, or aid in the inciting of discontent or dissatisfaction among the employees of any person, firm, or corporation with the intention of having them strike; to interfere with or prevent lawful and peaceful picketing during strikes; to interfere with, restrain or coerce employees in the exercise of their right to form, join, or assist any labor organization of their own choosing; to interfere with or hinder the lawful or peaceful collective bargaining between employees and employers; to pay, offer or give any

money, gratuity, favor, consideration, or other thing of value, directly or indirectly, to any person for any verbal or written report of the lawful activities of employees in the exercise of their right of self-organization and their right to form, join, or assist labor organizations and to bargain collectively through representatives of their own choosing; to advertise for, recruit, furnish or replace, or offer to furnish or replace, for hire or reward, within or without Minnesota, any help or labor, skilled or unskilled, or to furnish or offer to furnish armed guards, other than armed guards regularly employed for the protection of payrolls, property, or premises, for service upon property which is being operated in anticipation of or during the course or existence of a strike, or furnish armed guards upon the highways, for persons involved in labor disputes, or to furnish or offer to furnish to employers or their agents any arms, munitions, tear gas implements, or any other weapons; to use in any manner the words "police", "constable", "patrol", "law enforcement", or the name of the local city, county or state on any vehicle, badge, emblem, stationery, advertising of any private detective or protective agent as defined in section 326.338 and no vehicle, emblem, or badge shall be designed or worn as imitative of any such vehicle, emblem, or badge used by a police department, highway patrol, constable, or peace officer, or to send letters or literature to employers offering to eliminate labor unions, or distribute or circulate any list of members of a labor organization, or to advise any person of the membership of an individual in a labor organization for the express purpose of preventing those so listed or named from obtaining or retaining employment. Any person who violates the provisions of this subdivision is guilty of a gross misdemeanor.

Sec. 12. **Repealer.** Minnesota Statutes 1978, Sections 367.41, Subdivision 3; and 626.846, Subdivisions 1a, 3a, 4, and 5; Minnesota Statutes, 1979 Supplement, Sections 367.41, Subdivision 2; and 626.8467 are repealed.

Sec. 13. **Effective date.** This act is effective upon final enactment.

Approved April 15, 1980.

STATEMENT OF COMPLIANCE WITH
MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Richard Hodsdon, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Richard D. Hodsdon
Special Assistant Attorney General

Dated: August 14, 1980

CERTIFICATE OF BOARD'S
ADOPTION OF RULES RESOLUTION

I, Mark K. Shields, certify that I am Executive Director of the Minnesota Board of Peace Officer Standards and Training, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Peace Officer Standards and Training duly and properly called and held on the 11th day of August, 1980; that a quorum was present at said meeting, that a majority of those present voted for the resolution; that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVES, that the rule amendments relating to the licensing of peace officers, part-time officers, and constables be and they hereby are approved and adopted, pursuant to authority vested in us by Minn. Stat. 626.84 - .855 (Supp. 1979), as amended by Laws of 1980, ch. 578, and that Richard W. Setter, one of the members of the Minnesota Board of Peace Officer Standards and Training, be and hereby is authorized to sign an order adopting these rule amendments."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 11th day of August, 1980.

Mark K. Shields
Executive Director

Jean M. Mahr

JEAN M. MAHR
Notary Public, Ramsey County, Minn.
My Commission Expires May 21, 1982

RECEIVED
JUN 27 1980
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

BOARD OF PEACE OFFICER STANDARDS AND TRAINING

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES RELATING TO THE LICENSING OF PEACE OFFICERS, PART-TIME OFFICERS AND CONSTABLES.

AFFIDAVIT OF MAILING

William R. Carter, III, being duly sworn deposes and says:

That on the 18th day of June, 19 80, at the City of Saint Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of Saint Paul, a true and correct copy thereof, properly enveloped, with postage paid, to all persons and associations listed on the attached Certificate of the Secretary of State.

William R Carter, III
WILLIAM R. CARTER, III

Subscribed and sworn to before me
this 27th day of June, 1980.

Jean M. Mahr
JEAN M. MAHR
Notary Public, Ramsey County, Minn.
My Commission Expires May 21, 1983.

Exhibit No. 7
File No. Post-80-001-JL
Date 7-24-80

RECEIVED
JUN 27 1980
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

BOARD OF PEACE OFFICER STANDARDS AND TRAINING

IN THE MATTER OF THE PROPOSED AMENDMENTS TO RULES RELATING TO THE LICENSING OF PEACE OFFICERS, PART-TIME OFFICERS AND CONSTABLES.

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

William R. Carter, III, being duly sworn on oath deposes and says:

1. That he is an employee of the Minnesota Board of Peace Officer Standards and Training.

2. That on the 2nd day of June, 19 80, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups of persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to 15.0412.

3. That on that date, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

William R. Carter, III
WILLIAM R. CARTER, III

Subscribed and sworn to before me
this 27th day of June, 1980.

Jean M. Mahr

JEAN M. MAHR
Notary Public, Ramsey County, Minn.
My Commission Expires May 21, 1983

Exhibit No. 5
File No. Post-80-001-JL
Date 7-24-80

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of the Minnesota Board of Peace Officer Standards and Training Governing the Proposed Amendments to Rules Relating to the Licensing of Peace Officers, Part-Time Officers and Constables

I hereby certify that the attached 347 labels 1 sheets constitute the complete list of persons, associations, and other interested groups who as of 1:55 o'clock P.M, this 2nd day of June, 1980, have requested pursuant to M.S. 1976, 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State
Joan Anderson Growe

By Donna Scott

DPH Exhibit No. 6
File No. Post-80-001-JL
Date 7-24-80

STATE OF MINNESOTA

BOARD OF PEACE OFFICER STANDARDS AND TRAINING

In the Matter of the Proposed Amendments to Rules relating to the licensing of peace officers, part-time officers and constables.

NOTICE OF HEARING

A public hearing concerning the proposed rule amendments will be held at the State Office Building, 435 Park Street, Room 83, Saint Paul, Minnesota, on Thursday, July 24, 1980, commencing at 9:00 a.m. The proposed rule amendments may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendments, you are urged to participate in the rule hearing process.

Following the presentation of the Peace Officer Standards and Training Board (POST) at the hearing, all interested (or affected) persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or materials may be submitted to Jon Lunde, Office of the Hearing Examiners, 1745 University Avenue, Room 300, Saint Paul, Minnesota 55104, 612/296-6910, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411 - 15.0417 and 15.052, and by 9 MCAR §§ 2.101 - 2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the POST Board and at the Office of the Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule amendments. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

The proposed rule amendments would eliminate the prelicense probationary period for peace officers and would allow provisional licenses to be issued to part-time officers and constables.

The POST Board's authority to promulgate the proposed rule amendments is contained in Minn. Stat. §§ 626.84 to 626.855 (1980).

The agency estimates that there will be no cost to local public bodies in the State to implement the amendments immediately following their adoption, within the meaning of Minn. Stat. § 15.0412, subd. 7 (1978).

Copies of the proposed rule amendments are now available, and one free copy may be obtained by writing POST Board, 500 Metro Square Building, Saint Paul, Minnesota 55101, telephone 612/296-2620. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule amendments, contact the POST Board.

Exhibit No. 2
File No. Post-80-001-JL
Date 7-24-80

Any person may request notification of the date on which the Hearing Examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner, in the case of the Hearing Examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone 612/296-5615.

Dated: June 3, 1980

Mark K. Shields

MARK K. SHIELDS
Executive Director

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OFFICE OF HEARING
EXAMINERS

RECEIVED
JUN 3 1980
OFFICE OF HEARING
EXAMINERS

MINNESOTA BOARD OF PEACE OFFICER STANDARDS AND TRAINING

PROPOSED AMENDMENTS TO RULES RELATING
TO THE LICENSING OF PEACE OFFICERS,
PART-TIME OFFICERS AND CONSTABLES

Order for Hearing

It is hereby ordered that a public hearing on the proposed amendments to rules relating to the licensing of peace officers, part-time officers and constables be held at the State Office Building, 435 Park Street, Room 83, St. Paul, Minnesota, on Thursday, July 24, 1980, commencing at 9:00 a.m. The scheduled meeting will continue until all persons have had an opportunity to be heard.

It is further ordered that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

It is further ordered that the Notice of Hearing be published in the State Register.

June 3, 1980.

Mark K. Shields
Executive Director

Exhibit No. 1
File No. Post - 80 - 001 - JL
Date 7 - 24 - 80

RECEIVED
JUN 11 1980
OFFICE OF HEARING EXAMINERS

CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, RICHARD SETTER, do hereby certify that I am the Chairman of the Board of Peace Officer Standards and Training, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Board of Peace Officer Standards and Training duly and properly called and held on the 30th day of May, 1980, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that MARK SHIELDS, Executive Director of the Board of Peace Officer Standards and Training, is hereby granted the authority and directed to call a hearing for the purpose of promulgating rules of the Board of Peace Officer Standards and Training relating to standards of conduct as well as perform any and all acts incidental thereto, including but without being limited thereto, signing an order for hearing and notice of hearing as well as acting as presiding officer at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 9th day of June, 1980.

Richard Setter

RICHARD SETTER, Chairman

Exhibit No. 9
File No. Post-80-001-JL
Date 7-24-80