

BEFORE THE KANSAS COMMISSION ON PEACE OFFICERS' STANDARDS AND TRAINING

1999 N Amidon Ste. 350
Wichita, KS 67203

In the Matter

of

Timothy Morrison
28467

Case No. 2020-0191

ORDER

Now on April 11, 2023, the above-referenced matter comes for hearing by the Kansas Commission on Peace Officers' Standards and Training (Commission) regarding the law enforcement certification of Timothy Morrison (Respondent). Pursuant to the Kansas Administrative Procedure Act, the Commission has delegated its authority to serve as the Presiding Officer in the above-referenced matter to the Hearing Panel, which is comprised of the following Commissioners: Herman Jones, Superintendent of the Kansas Highway Patrol; Sherri Schuck, County Attorney of Pottawatomie County; and Roger Soldan, Sheriff of Saline County Sheriff's Office.

Timothy Morrison appeared in person and by counsel, Thomas Lemon. The Commission was represented by its litigation counsel, Special Assistant Attorney General Michelle Meier. Also present was Jay Rodriguez, Assistant Attorney General, serving as legal counsel to Hearing Panel in this matter.

Based upon its records and the evidence presented at the hearing, the Commission makes the following findings of fact, conclusions of law, and orders.

FINDINGS OF FACT

Procedural History

1. Timothy Morrison (Morrison) received his certification as a law enforcement officer, certification number 28467.

2. Morrison was employed as a full-time law enforcement officer with the Topeka Police Department (TPD) from October 23, 2017, to July 15, 2020. His law enforcement certification is currently active.

3. In September of 2019, a citizen complaint led the TPD to open an investigation into Morrison's conduct. At the conclusion of the investigation, Morrison was terminated from the TPD and was criminally charged on November 8, 2019, in the Third Judicial District, with violating restrictions on dissemination of criminal history record information and official misconduct. Morrison entered a diversion agreement on both counts, effective June 23, 2021. Subsequently, the Commission opened an investigation.

4. After the investigation, the Commission's Investigative Committee issued a Summary Order of Revocation. The Committee determined Morrison had violated the following three provisions of the Kansas Law Enforcement Training Act (KLETA): (1) K.S.A. 74-5616(b)(7)—engaging in unprofessional conduct as defined in K.A.R. 106-2-3(d & g); (2) K.S.A. 74-5616(b)(5)—engaging in conduct which, if charged as a crime, would constitute a felony crime under the laws of this state, a misdemeanor crime of domestic violence as defined in the Kansas law enforcement training act at the time the conduct occurred, or a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission; and (3) K.S.A. 74-5616(b)(1)—failing to meet and maintain the certification requirement of good moral character sufficient to warrant the public trust as required in K.S.A. 74-5606(b)(5). Based upon these violations, the Commission issued a summary proceeding order on May 11, 2021, revoking Morrison's provisional certification as a law enforcement officer. Morrison requested a hearing on the order.

5. Prior to hearing, the parties stipulated to twenty State exhibits and one Respondent exhibit.

Hearing

6. The hearing was held on April 11, 2023. Morrison appeared in person and by counsel, Thomas Lemon. Morrison was advised of his right to present evidence and witnesses. All witnesses were sworn prior to testifying. The Commission admitted State's exhibits 1-20, and Respondent's exhibit 1.

7. On September 14, 2019, TPD body cameras revealed that TPD officers were flagged down by J.F., who proceeded to complain that Morrison had been "sneaking around" with his seventeen-year-old daughter, L.F. In addition to discovering L.F. sitting in the middle seat of Morrison's pickup truck—"practically sitting in his lap"—J.F. claimed that Morrison had repeatedly taken his daughter out of school, brought her food and took her out to restaurants, and visited her while she worked. J.F. filed a written complaint with TPD the same day.

8. Lieutenant John Sturgeon of TPD investigated Morrison's conduct. He interviewed Morrison, J.F., L.F., L.F.'s co-workers, and church leaders at Morrison's church where he volunteered with its youth group. Lt. Sturgeon's investigation revealed that Morrison first encountered L.F. in August, 2019, at the mall where she worked, while Morrison was working as a security guard. When Morrison worked at the mall, he wore his TPD uniform. L.F. shared with Morrison that she was interested in a law enforcement career, and also indicated that she had trouble at home with her family. L.F. and Morrison exchanged phone numbers.

9. In the period of approximately three weeks prior to TPD's receipt of J.F.'s September 14, 2019, complaint, Morrison and L.F. communicated by phone, text, and Snapchat nearly every day. Morrison sent and received photos to and from L.F. during his shifts with TPD. Some of the photos Morrison sent to L.F. included Morrison in uniform and in his assigned police vehicle.

10. Morrison and L.F. saw each other socially, outside of L.F.'s workplace, on at least four occasions. Morrison picked up L.F. from her home and took her to breakfast once, picked her up from her high school and took her to lunch at least twice, and once, while on duty, delivered food to her at her house. On one occasion, L.F. contacted Morrison after midnight and told him she was thinking about running away from her family home. Morrison picked her up in his truck, drove her approximately five miles from her home to a Casey's gas station, bought her pizza, and spent two or three hours with her before taking her home later that morning. During that time, L.F. kissed Morrison on the cheek. On that occasion, Morrison believed L.F. had run away from home, but never reported it to his superiors in TPD and never contacted L.F.'s family. He stated that his intention was to gain L.F.'s trust and develop his relationship with her, and that informing her parents or TPD would have hurt his relationship with L.F.

11. Many people who knew L.F., including her father, her grandmother, and two of her co-workers, were concerned that Morrison's relationship with L.F. was inappropriate. Morrison described the relationship as essentially friendly, and not romantic, but admitted to several hugs and at least one kiss. Morrison regularly called L.F. to wake her up in the morning, discussed her family history and advised her about school and career opportunities. Lt. Sturgeon's interview with L.F. substantially confirmed this account of their relationship. Both denied having a sexual relationship.

12. Morrison testified that he saw himself as a friend and mentor to L.F. and intended only to keep her out of trouble and on the right track. He noted that this role was similar to work he did for Faith Hope Church as a volunteer with the church's youth group. However, Morrison did not attempt to take L.F. to his church and did not inform or seek guidance from anyone at his church regarding his relationship with L.F. His behavior with L.F., particularly his repeated, unsupervised one-on-one interactions with L.F., were not consistent with the church's youth group guidelines for adult volunteers.

13. Morrison and L.F. did not see each other again after September 14, 2019, when L.F.'s father discovered them together in Morrison's truck. Morrison stated that was

when he first realized his relationship with L.F. might appear to others to be inappropriate. He believed that L.F. had told her family about him and that L.F.'s father and grandmother approved of Morrison's relationship with L.F. Morrison understood why L.F.'s father, J.F., would be angry about Morrison's relationship based on the way it appeared to J.F., and said he would have felt the same way if he had been in J.F.'s position.

14. Following the complaint made by J.F. to TPD, Morrison texted L.F. to inform her of the complaint, writing: "So I'm going to have to deal with that. I'm going to tell them I was taking you to breakfast. That work for you?" TPD and CPOST Investigator Michael Oliver believed this text was evidence that Morrison attempted to hide aspects of his relationship with L.F. from investigators. Morrison denied attempting to hide anything and said he did not know why he phrased his text that way.

15. During the course of Morrison's relationship with L.F., Morrison accessed CJIS and TPD Law Enforcement Records Management Systems (LERMS) and reviewed criminal justice records of L.F., L.F.'s then-boyfriend C.P., and L.F.'s father, J.F. Morrison stated that he looked up L.F.'s records to determine if she had run away from home or was subject to a "no run" order and because he was curious about her record. He said that he looked up C.P. to determine if C.P. had outstanding warrants after C.P. requested, through L.F., information about a pending case. And on his own initiative, Morrison looked up J.F. to determine if he had any outstanding warrants. After accessing L.F.'s records, which included information about a prior sexual assault, Morrison informed L.F. of details of the case and discussed her record. He also disclosed via Snapchat and in person aspects of C.P.'s juvenile criminal record.

16. Morrison's access and disclosure of confidential juvenile records and criminal justice record information was determined to be a violation of TPD policy. Morrison was terminated effective July 15, 2020. Following its investigation, TPD referred the case to the District Court, Third Judicial District of Kansas, for prosecution (Case No. 2019-CR-2273). Morrison resolved the criminal complaint with a Diversion Agreement on June 15, 2021, in which he did not admit guilt to the charged conduct.

CONCLUSIONS OF LAW

17. Administrative proceedings to suspend or revoke the certification of a law enforcement officer are conducted pursuant to the Kansas Administrative Procedure Act (KAPA), K.S.A. 77-501, *et seq.* K.S.A. 74-5616(c). Under the KAPA, the Commission's Investigative Committee issued a Summary Order of Denial of Certification after concluding that Morrison had committed violations of three provisions of the KLETA. Morrison timely requested a hearing on the order. The Commission has jurisdiction over Morrison and this matter.

18. K.S.A. 74-5616(b)(1) authorizes the Commission to suspend, condition, or revoke the certification of a law enforcement officer who fails to meet and maintain the requirements for certification as set forth in K.S.A. 74-5605 and amendments thereto. Clear and convincing evidence was presented at the hearing to show Morrison violated

the following three provisions of the KLETA: (1) K.S.A. 74-5616(b)(7)—engaging in unprofessional conduct as defined in K.A.R. 106-2-3(d & g); (2) K.S.A. 74-5616(b)(5)—engaging in conduct which, if charged as a crime, would constitute a felony crime under the laws of this state, a misdemeanor crime of domestic violence as defined in the Kansas law enforcement training act at the time the conduct occurred, or a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission; and (3) K.S.A. 74-5616(b)(1)—failing to meet and maintain the certification requirement of good moral character sufficient to warrant the public trust as required in K.S.A. 74-5606(b)(5). Based upon these violations, the Commission issued a summary proceeding order on May 11, 2021, revoking Morrison’s provisional certification as a law enforcement officer. Morrison requested a hearing on the order.

Unprofessional Conduct

19. KLETA authorizes the Commission to suspend, condition, or revoke the certification of a law enforcement officer who engages in unprofessional conduct, as defined by the Commission in regulation. K.A.R. 106-2-3 defines unprofessional conduct, which includes the following:

K.A.R. 106-2-3(d) willfully disclosing criminal history record information or other information designated as confidential by statute or regulation, except for a legitimate law enforcement purpose or when required by order of a court or agency of competent jurisdiction;

K.A.R. 106-2-3(g) exploit or misusing the position as an officer to establish or attempt to establish a financial, social, sexual, romantic, physical, intimate, or emotional relationship.

20. During his employment with TPD, Morrison willfully disclosed criminal history record information and other information designated as confidential when he accessed the criminal history record information related to L.F., J.F., and C.P. and disclosed information taken from those records to L.F. The purpose of this disclosure was to build trust and develop his relationship with L.F., rather than any legitimate law enforcement purpose.

21. During his employment with TPD, Morrison misused his position to establish a social, physical, intimate, emotional and arguably romantic relationship with L.F. Morrison’s first encounter with L.F. occurred in his TPD uniform and involved a discussion of law enforcement career opportunities, and he visited and otherwise communicated with L.F. during his law enforcement shifts. Morrison also used his access to law enforcement records to improve his relationship with L.F. and failed to report what Morrison believed was L.F.’s status as a runaway when he thought that such a report would harm his relationship with L.F.

22. Based on the totality of the evidence, the Commission concludes that there is clear and convincing evidence to show that Morrison engaged in unprofessional

conduct by disclosing criminal history record or other confidential information for a non-law enforcement purpose, and by misusing his position as a law enforcement officer to establish a prohibited relationship, in violation of K.S.A. 74-5616(b)(7), as defined in K.A.R. 106-2-3(d & g).

Misconduct

23. KLETA authorizes the Commission to suspend, condition or revoke the certification of a law enforcement officer who engages in conduct which, if charged as a crime, would constitute a felony crime under Kansas law or a misdemeanor crime that the Commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission, in violation of K.S.A. 74-5616(b)(5). Such misdemeanor crimes include violating restrictions on the dissemination of criminal history record information by an individual (K.S.A. 22-4707) and official misconduct by using confidential information acquired in the course of and related to a police officer's employment for the private benefit or gain of the officer (K.S.A. 21-6002).

24. The definition of the misdemeanor crime of violating restrictions on dissemination of criminal history record information prohibits a criminal justice agency from disseminating criminal history record information except in strict accordance with laws, including applicable rules and regulations. Such information may be requested only with a legitimate need for the information. K.S.A. 22-4707. Any individual violation or causing a violation K.S.A. 22-4707 is guilty of a class A misdemeanor, and, if the person is employed or licensed by a state or local government agency, a conviction shall constitute good cause to terminate employment or to revoke or suspend a license.

25. The definition of the misdemeanor crime of official misconduct includes "using confidential information acquired in the course of and related to the officer's or employee's office or employment for the private benefit or gain of the officer or employee or another or to intentionally cause harm to another." K.S.A. 21-6002(a)(3).

26. During his employment with TPD, LERMS access records and records of communications between Morrison and L.F. show that Morrison willfully accessed and disclosed criminal history record information, which he acquired in the course of his employment. Statements collected by Lt. Sturgeon support the conclusion that Morrison lacked a legitimate law enforcement purpose accessing and disseminating confidential information obtained from criminal record history information.

27. In his testimony, Morrison admitted that he accessed the criminal history record information and disseminated it and that he did so in part to gain the trust of another person for his own personal benefit.

28. Morrison was charged with commission of the misdemeanor crimes described above (K.S.A. 22-4707 & 21-6002(a)(3)). Rather than proceed to trial, Morrison agreed to pre-trial diversion, which was offered "upon [Morrison's] accepting responsibility

for these acts as alleged.” Morrison’s acceptance of responsibility for the charged conduct supports the conclusion that Morrison’s conduct constituted a misdemeanor crime which reflects on his integrity and competence as a law enforcement officer.

29. Based on the totality of the evidence, the Commission concludes that there is clear and convincing evidence to show that Morrison engaged in conduct that constituted the misdemeanor crimes of violating restrictions on dissemination of criminal history record information and official misconduct. Morrison’s conduct in accessing and disclosing such information constitutes commission of misdemeanor crimes which reflects on his integrity and competence as a law enforcement officer. This conduct violated K.S.A. 74-5616(b)(5).

Failure to Maintain Certification Requirement of Good Moral Character

30. KLETA authorizes the Commission to suspend, condition, or revoke the certification of a law enforcement officer who fails to meet and maintain the requirements of K.S.A. 74-5605(b)(5), which requires law enforcement officers to have good moral character sufficient to warrant the public trust. K.S.A. 74-5616(b)(1).

31. K.A.R. 16-2-4(a) defines the term “good moral character” to include the following personal traits or qualities:

- (1) Integrity;
- (2) honesty;
- (3) upholding the laws of the state and nation;
- (4) conduct that warrants the public trust; and
- (5) upholding the oath required for certification as specified in K.A.R. 106-3-6.

The required oath for certification as a law enforcement officer is:

On my honor, I will never betray my badge, my integrity, my character, or the public trust. I will always have the courage to hold myself and others accountable for our actions. I will always uphold the constitution of the United States and of the state of Kansas, my community, and the agency I serve. K.A.R. 106-3-6.

32. Any single incident or event is sufficient to show that an officer has failed to maintain good moral character sufficient to warrant the public trust. K.A.R. 106-2-4(b).

33. Because they are vital members of the judicial system, law enforcement officers must adhere to a higher standard of conduct than what is expected of private citizens. For persons who uphold the law, this higher standard is not reflected in taking the path of least resistance, but by doing the unpleasant thing if it is right and not doing the pleasant thing if it is wrong. *Application of Walker*, 112 Ariz. 134, 138 (1975).

34. The practice of law enforcement is reliant upon the trait of good moral character sufficient to warrant the public trust. The trust that the public places in a law enforcement officer is based upon the expectation that an officer is honest, candid, fair, and respectful of the laws and individuals. Any officer failing to adhere to these standards has compromised their integrity.

35. The Commission hereby incorporates by reference the paragraphs numbered 7 through 29 above. The Commission determines those paragraphs show Morrison's conduct clearly demonstrates a lack of good moral character sufficient to warrant the public trust due to Morrison's failure to observe the laws of the state and his misuse of his position for his personal gain. Morrison's conduct was conduct that destroys the public trust as well as betrays his badge and integrity as a law enforcement officer.

36. Based upon the totality of the evidence, the Commission concludes that there is clear and convincing evidence to show Morrison has failed to maintain the requirements for certification as a law enforcement officer, specifically the requirement in K.S.A. 74-5605(b)(5) of "good moral character sufficient to warrant the public trust," thereby violating K.S.A. 74-5616(b)(1).

Sanction

37. The Commission has concluded that the facts show that Morrison has violated three provisions of the KLETA. Morrison engaged in unprofessional conduct, in conduct that constitutes a misdemeanor which reflects on his integrity and competence as a law enforcement officer, and he failed to maintain the good moral character, warranting the public trust, that is required of his certification.

38. Based on the above violations, separately and collectively, the Commission determines that the law enforcement officer certification issued to Morrison should be revoked.

ORDER

Upon consideration of the above findings of fact and conclusions of law, it is the decision and order of the Commission that the law enforcement certification issued to Timothy Morrison should be and is hereby revoked. It is the further decision and order of the Commission that Timothy Morrison must surrender and return to the Commission all evidence of his certification as a law enforcement officer with thirty (30) days from the date entered on the certificate of service below.

IT IS SO ORDERED.

 _____ FOS:

Herman Jones
Commissioner and Chair of Hearing
Panel
As designate by and on behalf of the
Kansas Commission on Peace
Officers' Standards and Training

NOTICE OF ADMINISTRATIVE RELIEF

The above Order revoking the certification as a law enforcement officer issued to Timothy Morrison is a final order. Pursuant to K.S.A. 77-529, a party may file with the Commission a petition for reconsideration within 15 days from the date noted below in the Certificate of Service. Such petition must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

Pursuant to K.S.A. 77-528, a party may file with the Commission a petition for stay of effectiveness of the order prior to the expiration of the time in which to file a petition for judicial review. The filing of a petition for a stay of effectiveness is not a prerequisite for seeking judicial review.

NOTICE OF JUDICIAL RELIEF

Pursuant to K.S.A. 77-613, a party may file within 30 days from the date noted below in the Certificate of Service a petition for judicial review with the appropriate district court as provided in the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The agency officer who may receive service of a petition for reconsideration, a petition for a stay, or a petition for judicial review on behalf of the Board is Doug Schroeder, Kansas Commission on Peace Officers' Standards and Training, 1999 N. Amidon, Suite 350, Wichita, KS 67203.

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of May, 2023, a copy of the above Final Order and Notice of Administrative and Judicial Relief was deposited with the United States Postal Service, postage pre-paid, and addressed to:

Timothy Morrison


Thomas Lemon
3200 S.W. Huntoon
Topeka, KS 66604
Counsel for Timothy Morrison

I further certify that on the same day a copy of the above Order and Notices were personally delivered to:

Michelle R. Meier
Special Assistant Attorney General
Kansas Commission on Peace Officers'
Standards and Training
1999 N. Amidon, Suite 350
Wichita, KS 67203

Original filed with:

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