

MINUTES OF ARKANSAS STATE POLICE COMMISSION
SPECIAL CONFERENCE CALL MEETING
June 3, 2013

The Arkansas State Police Commission met for a special Conference Call meeting on Monday, June 3, 2013 at the Arkansas State Police Administrative Headquarters, 1 State Police Plaza Drive, Little Rock, Arkansas.

Commission Chairman Christenson called the meeting to order at 10:00 a.m.

MEMBERS ON CONFERENCE CALL:

Commissioner Jane Christenson, Chairman
Commissioner Woody Futrell, Vice Chairman
Commissioner Wallace Fowler, Secretary
Commissioner John Allison
Commissioner Bob Burn
Commissioner Frank Guinn

MEMBERS ABSENT FROM CALL:

Commissioner Dr. Lewis Shepherd

OTHERS ATTENDING ON CONFERENCE CALL:

Meredith Rebsamen, Attorney General's Office
Shawn Childs, Attorney at Law

STATE POLICE PERSONNEL ATTENDING:

Donna Humphries
Bill Sadler
Elaine Lee

OTHERS PRESENT:

Spencer Woolum, Arkansas Democrat-Gazette

NOTIFICATION OF MEDIA:

The media was notified of this meeting on Friday, May 31, 2013 at 3:30 p.m.

Commission Chairman Christenson asked Donna Humphries to call the roll. She then advised they had a quorum and could proceed with business.

NEW BUSINESS:

Commission Chairman Christenson advised they were meeting to discuss requests by Shawn Childs for subpoenas for the following persons: Lloyd Franklin, Major Les Braunns, Major J.R. Hankins, Kathy Sparks, and Winford Phillips. This is for the Raymond Siggers Appeal Hearing to be held Thursday, June 6, 2013. Commission Chairman Christenson asked Elaine Lee if she had any objections. Ms. Lee responded that she did object to all five of these people being subpoenaed for appearance at the hearing. Ms. Lee asked Commission Chairman Christenson to let her know the easiest way for her to respond to Mr. Childs' request. She asked if the Commission wanted her to go person by person or go through them all at once to voice her objections.

Ms. Lee asked Mr. Childs if he had a particular order to go by or if he wanted to say something or just stand on their anticipated testimony. Mr. Childs stated he did not know if all the commissioners had received the copy of his witness list. He continued by saying that's the summary, at least, of their anticipated testimony. He also stated Mr. Siggers' appeal is interrelated with his complaint of race and retaliation regarding his termination. He filed a complaint of race discrimination against Lieutenant Tosh before a complaint by La Mar was filed against Mr. Siggers. That actually preceded that complaint, so he believed that he was discriminated against because of his race and two this is all in retaliation for his making that complaint against Lieutenant Tosh. So, in a way this is all interrelated, and that is one of the reasons we, I, listed these five persons.

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Also, I think it is important to note that the investigation of Lieutenant Tosh and Mr. Siggers was actually combined by the ASP during their investigation. So the ASP itself thought that both complaints were related. I will just let Elaine make her objections to the individuals.

Commission Chairman Christenson asked Mr. Childs if this group of five people had been cut down from the long list of over eleven witnesses. He answered in the affirmative. She asked if this is the only five they would be hearing. He advised that would be in addition to the list by the State Police.

Ms. Lee stated she wanted to preface her objections for the record with stating that the complaint that Ray Siggers initiated against Lieutenant Brant Tosh was determined to be unfounded by this department. Additionally, our Office of Professional Standards (OPS) separately investigated the complaint against Lieutenant Tosh and it had a separate case number from the case that investigated Corporal Siggers initiated by, at the time, Captain La Mar and now Major Henry La Mar. She continued by saying she just wanted to put that out there, and she would go one by one and state her objections and make it brief.

Ms. Lee began with Major Les Braunns. She stated her objection to him being subpoenaed is that his anticipated testimony confirms the "untimeliness of Major La Mar's complaint and Siggers' complaint against Lieutenant Tosh. My objection is based on Major La Mar being here to testify. He is one of my witnesses, so he can testify personally as to the timeline related to the filing of the complaint. As far as Siggers' complaint against Tosh, as I said earlier, that was determined to be unfounded. Major Les Braunns was not part of OPS that even investigated that complaint, so I would object to him being subpoenaed to testify in this matter.

Second is Major J. R. Hankins. He was on the second Command Staff Review Board. His anticipated testimony concerns agency policy regarding due process, i.e. rights to documents before a hearing for an employee under investigation, and during Ray Siggers' first Command Staff Review Board, it was determined right at the conclusion of that board that there was some additional witness information that might be present. That's why there was a second Command Staff Review Board. At that Review Board, there were several pages of the transcript that were not transcribed. The recording continued and it was not determined that it was not completely transcribed until Captain Coppinger went to his backup recorder and found that his primary recorder had cut off. So all that Major Hankins did was facilitate Ray Siggers getting those additional pages of the recording. He does not write the policy, he only follows the policy, so that's why I would object to him being subpoenaed to testify to anything about that.

Third, I will do Retired Captain Lloyd Franklin. His expected testimony concerned a complaint about Lieutenant Tosh and a similarly situated white trooper, Brandon Chandler, as well as the untimeliness of Captain La Mar's complaint. As I stated earlier, Major La Mar will be here. He will be able to testify to the timeline of the complaint, and I can find no relation whatsoever to this hearing on Thursday and Brandon Chandler. Brandon Chandler is no longer employed by Arkansas State Police and I have no idea how he could be related to the insubordination or the untruthfulness of Ray Siggers.

Major Kathy Sparks. She was on the first Command Staff Review Board, as I stated earlier, at the conclusion of that Review Board, it was determined that there was potential new information and potential new witnesses for this investigation. When the second Command Staff Review Board convened, they did not pick up where the first Review Board left off, they started from the very beginning, so they did not take any findings from that first Review Board, they started anew and went from the beginning all the way to the end, so essentially that first Command Staff Review Board did not do anything. The second one did everything related to this case.

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Last would be former Director, Winford Phillips. His expected testimony concerns the untimeliness of La Mar's complaint, and Ray Siggers request that both he and Tosh be examined through a polygraph, and Major La Mar will once again be here to testify. As far as the polygraphs go, Colonel Phillips was not a part of the investigation. He was not leading the investigation. At no point in time would he have been able to order polygraphs for Ray Siggers or for Brant Tosh. In theory, the Lieutenant Colonel, when he reviewed the investigative file could direct OPS to perform additional things. Polygraph could, in theory, be one of them. But he is the only person that would be able to do that. When the Director gets the investigative file from the Lieutenant Colonel, it is complete. At that point in time he cannot order anything else to be done. And so for that reason, I would object to him being subpoenaed.

I think I've covered everybody, does anybody have any questions for me?

Commission Chairman Christenson asked Mr. Childs if he had a response.

Mr. Childs advised he was looking at the rules, so he did not know what the standard is that the Commission goes by when determining whether or not to grant these requests. He asked if there is a certain standard the Commission goes by when determining whether to grant requests for subpoenas.

Meredith Rebsamen spoke, introducing herself, and stating she represents the Commission, she responded by saying the standard would be somewhat the same as in a civil matter. Of relevance, obviously, is a key issue, and that is the only thing the Commission has previously denied subpoenas, on the basis of, so really it is up to the Commission, it is wholly within their discretion which persons they want to hear from and what they think might be relevant to the appeal hearing.

Commissioner Futrell made a motion that all five subpoenas be granted. Commissioner Allison seconded the motion. Commissioner Allison asked if they were looking at the appeal of the racial discrimination again, and Commission Chairman Christenson advised this is a different case. Commissioner Allison stated he did not understand the relevance of it. Commissioner Wallace Fowler said he thought it had already been decided on, and that was it. Commission Chairman Christenson advised this is a different hearing. The one we talked about last meeting was a different hearing. This is for our hearing this coming Thursday.

Commissioner Allison said he didn't want to keep people from not having the opportunity to testify.

Commissioner Guinn asked how many total witnesses are they asking for? Commission Chairman Christenson said she understood they are only asking for five witnesses, where originally it was eleven.

Commissioner Futrell stated since the list has been cut down to five those should be included for the hearing. Commissioner Guinn agreed.

Commission Chairman Christenson asked for any further discussion of the motion. There was no further discussion, so a vote was taken by roll call with the results being:

Commissioner Futrell	Yes
Commissioner Fowler	Yes
Commissioner Burns	Yes
Commissioner Guinn	Yes
Commissioner Allison	Yes
Commission Chairman Christenson	Yes

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Commission Chairman Christenson advised it is agreed that these five will be included in the hearing on Thursday. She also reminded the Commission that the meeting is at 9:00 o'clock Thursday, and the hearing will come probably a little after 10:00 that same day. She also reminded them of the Troop School Graduation which is Thursday night at 6:00 at the Capitol Rotunda.

Elaine Lee asked if she might add something. She said she wanted to make sure Shawn Childs can make arrangements for Chairman Christenson to get the subpoenas so she can sign them, because she has to be the one who signs off on them. She wanted to make Mr. Childs aware of that before they hung up.

Mr. Childs asked where he can contact Ms. Christenson. Commission Chairman Christenson advised Mr. Childs she is in Harrison.

Meredith Rebsamen explained that in the past, they have made someone local responsible for signing the subpoenas in lieu of the chair signing the subpoenas, obviously because the chair is so far away. She advised Commission Chairman Christenson that she could designate someone to sign on her behalf.

Commission Chairman Christenson asked if Commissioner Burn could sign these, and he advised he is actually in Texarkana today.

Commission Chairman Christenson asked if she could have the subpoenas faxed to her and have them sent back. Ms. Rebsamen advised she didn't think original signatures were necessary, that the documents could be faxed.

Ms. Lee said it would be okay to scan and email or fax them, however they can make it work is fine with us, obviously.

Commission Chairman Christenson said after the meeting she would get with Ms. Humphries and exchange the necessary information to get the subpoenas signed. She then asked if there was any other discussion before closing the meeting.

Mr. Childs asked if he can just pick them up from Ms. Humphries after they have been signed.

Ms. Lee advised that in the Commission Rules it talks about who can serve them and exactly what needs to be done, and she said once we get the subpoenas over here and forward them on she will call or email him with instructions.

Commissioner Futrell made a motion to adjourn and Commissioner Burns seconded it.

The meeting was then adjourned at 10:23 a.m.

Commission Chairman

Commission Secretary