

**Law Enforcement Standards Board (LESB)
Quarterly Meeting
December 5, 2023**

- VII. Proposed Decision and Objections in the Matter of an Appeal Regarding the LESB's Decision of the Administrator of the Division of Law Enforcement Services (Acting Director of the Bureau of Training and Standards), to restrict Javin Bradley's re-enrollment in a 720-hour law enforcement training academy in Wisconsin until May 1, 2024.**



STATE OF WISCONSIN
Law Enforcement Standards Board

In the Matter of Javin Bradley

PROPOSED DECISION
Case No. LESB-23-0002

PRELIMINARY RECITALS

In April 2023, Mr. Javin Bradley was in police recruit training at the Milwaukee Area Technical College (MATC). On April 21, 2023, MATC dismissed Mr. Javin Bradley from further training due to academic misconduct. (TSB Ex. 1:1—5.) MATC issued a report determining that Mr. Bradley wrote information on his hand related to Standardized Field Sobriety Testing (SFST) before an SFST examination. (TSB Ex. 1:1—5.) The report also stated that papers left behind by Mr. Bradley at the SFST test included a copy of a SFST pretest, which students are forbidden to retain. (TSB Ex. 1:3.)

On May 2, 2023, the Compliance Officer of the Training and Standards Bureau (Bureau) of the Wisconsin Department of Justice’s Division of Law Enforcement Services issued a decision agreeing with the dismissal and recommending that Mr. Bradley be prohibited from re-enrolling in another law enforcement training academy or commencing law enforcement employment in Wisconsin for two years. (TSB Ex. 2:14—15.)

On May 19, 2023, Mr. Bradley, by counsel, appealed the Bureau decision to the Director of the Bureau. (TSB Ex. 3:16—23.)

On June 29, 2023, the Director affirmed the Bureau decision, but reduced the time that Mr. Bradley was prohibited from re-enrolling from two years to one year. (TSB Ex. 5:26—31.) The Director issued a decision explaining the factual basis for the affirmance and the criteria for the decision. (TSB Ex. 5:26—31.) Findings included that Mr. Bradley’s “dishonest conduct was serious and inconsistent with fitness standards for law enforcement officers,” that Mr. Bradley “displayed dishonest conduct during the investigation and appeal process,” that he “cooperated with the investigation

by answering questions,” and that Mr. Bradley initially did not express remorse, but later clearly indicated remorse for his actions. (TSB Ex. 5:30.)

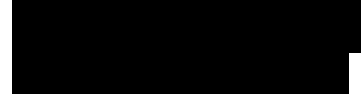
On July 14, 2023, Mr. Bradley requested a hearing before the Executive Committee of the Law Enforcement Standards Board (the “Board”). In his hearing request, Mr. Bradley stated that he disputes the finding that he displayed dishonest conduct during the investigation. (TSB Ex. 6:32.)

A hearing before the Board was held on August 31, 2023, via Zoom videoconferencing. Assistant Attorney General S. Michael Murphy served as hearing examiner pursuant to Wis. Stat. § 227.46(1) and the Board’s written policies and procedures. Prior to the hearing, the parties submitted joint exhibits which are included in the record in this matter as documents TSB Ex. 1-6. The hearing was transcribed, and the transcript is referred to herein as the “Tr.”

Pursuant to Wis. Stat. § 227.47(1), the parties to this proceeding are certified as follows:

State of Wisconsin
Law Enforcement Standards Board
17 West Main Street, P.O. Box 7070
Madison, WI 53707-7070

Mr. Javin Bradley



Training and Standards Bureau
Division of Law Enforcement Services
Wisconsin Department of Justice
17 West Main Street, P.O. Box 7070
Madison, WI 53707-7070

FINDINGS OF FACT

1. On April 17, 18, and 19, 2023, Mr. Bradley attended a police recruit class at MATC. (TSB Ex. 1:1, 6.)
2. On April 19, 2023, MATC administered a SFST test to the class that included Mr. Bradley. (TSB Ex. 1:6—7; Tr. 28.)
3. At the start of the class, students were given a SFST pretest to study from. (TSB Ex. 1:3.) Prior to the test, all students were ordered to turn in the pretest, and students are forbidden to retain a copy. (TSB Ex. 1:3.)

4. On the day of the SFST test, the class spent the morning reviewing materials. (Tr. 20—30.) The SFST test then began in the afternoon, at or around 3:15 p.m. (TSB Ex. 3:17, 4:24.)

5. Shortly before the test, Mr. Bradley asked Recruit Officer Rebecca Leibiger, another student in the class, a question about test-related information. (Tr. 30—31, 55.) Specifically, he asked RO Leibiger for certain percentage figures related to field validation for SFST. (TSB Ex. 1:10, Tr. 30-31, 54-55.)

6. RO Leibiger told Mr. Bradley the percentage numbers: 88, 79 & 83. (TSB Ex. 1:7, 10.)

7. Mr. Bradley then wrote the percentages numbers on his left index finger. (TSB Ex. 1:10, Tr. 30.) Mr. Bradley wrote the numbers on his fingers in the moments before the test, and not earlier in the day during class review activities. (Tr. 30, 50, 55.)

8. The SFST test included a question about those field validation percentages. (TSB Ex. 4:24.)

9. MATC's Recruit Training Program, General Rules of Conduct include that: "There is zero tolerance for cheating. Cheating will result in removal from the program." (TSB Ex. 1:11.)

10. At about 8:15 p.m. on April 19, 2023, MATC Director of Training Allen Groszcyk asked Mr. Bradley if he had notes written on his hand. (TSB Ex. 2.) Mr. Bradley confirmed that he had notes of percentages accuracy for SFST events written on his hand, and Director Groszcyk could see smudged pen marks on Mr. Bradley's finger. (TSB Ex. 1:2.)

11. Mr. Bradley does not dispute that he wrote notes on his hand, but claims that he wrote earlier in the day, forgot to remove the writing before the test, and did not use the writing during the test. (TSB Ex. 4:24.)

12. Later on April 19, 2023, MATC staff picked up papers left behind by Mr. Bradley. (TSB Ex. 1:3.) The papers included a copy of a SFST pretest, which students are forbidden to retain. (TSB Ex. 1:3.)

13. In a written statement, Mr. Bradley acknowledged that he kept a copy of the pre-test, though Mr. Bradley maintains that he did not know he was not allowed to keep a copy. (TSB Ex. 4:24.)

14. During an initial investigation of the incident, Mr. Bradley expressed that he was sorry MATC thought he was cheating. (TSB Ex. 1:3.) In a later written statement made after his dismissal from MATC, Mr. Bradley expanded upon that statement and expressed an apology for his conduct. (TSB Ex. 4:24—25.)

DISCUSSION

The primary issue that Mr. Bradley raised in his request for a hearing before the Board is his disagreement with the Director of the Bureau's determination that he displayed dishonest conduct during the investigation of the incident. (TSB Ex. 6:32.) He also raises an argument that the witness who saw him write on his hand immediately prior to the test may have had a reason to be dishonest. (TSB Ex. 6:32.)

Mr. Bradley indicated that he wrote on his hand earlier in the day, and not immediately prior to the test. (TSB Ex. 4:24.) However, a witness observed Mr. Bradley write the notes on his hand immediately before the test. If true, that means that Mr. Bradley was dishonest when he stated that he wrote on his hand earlier in the day. Based on live testimony at the August 31, 2023, hearing, the Board concludes that the testimony of the witness is more credible than Mr. Bradley's explanation, and that Mr. Bradley wrote on his hand immediately prior to the test. No evidence in the record or presented at the hearing indicates that the witness was dishonest. The Board therefore concludes that Mr. Bradley was dishonest during the investigation when he said that he wrote the notes earlier.

That determination resolves the specific issue raised in Mr. Bradley's hearing request. However, the Board has also reviewed the facts underlying Mr. Bradley's removal from the MATC program and the decision that he may not re-enroll in another training academy for one year.

Wisconsin law explicitly makes honesty a job requirement for law enforcement officers. *See* Wis. Stat. § 165.85(3)(cm). Every Wisconsin law enforcement officer is also required to take an oath that, among other things, he will be “[h]onest in thought and deed in both [his] personal and official life.” Wis. Admin. Code § LES 3.01(1)(d). These provisions embody a recognition that police officers are public officials serving in positions of great public trust. With

that trust comes the expectation that officers will act in accordance with the law and with all rules that govern their conduct. With a police officer's power to use legally sanctioned force against citizens comes the responsibility to act as a living embodiment of the rule of law. This includes a responsibility of scrupulous honesty. Police officers also serve an important symbolic function as representatives of the rule of law. When officers display anything less than rigorous honesty, public trust in government is diminished and society is harmed.

Additionally, MATC's rules of conduct for law enforcement training include a prohibition on cheating, and a policy that cheating will result in removal from the program. The factors governing whether, when, and under what conditions a student or recruit will be allowed to re-enroll into another preparatory training academy and to re-commence any employment as a law enforcement officer after dismissal from an academy are set forth in section VIII of the Student Conduct and Discipline Policy of the Academy Director's Manual for the Wisconsin Law Enforcement Standards Board Training and Standards Bureau. The factors are:

- a. The seriousness of the wrongful conduct underlying the disciplinary action and the extent to which that conduct may be inconsistent with the fitness standards for law enforcement officers set forth in Wis. Stat. § 165.85 and Wis. Admin. Code § LES 2-4;
- b. The extent to which the student or recruit has displayed dishonesty either in the underlying wrongful conduct or in the course of any investigations of that conduct;
- c. The extent to which the student or recruit has cooperated in any investigations of the underlying wrongful conduct; and
- d. The extent to which the student or recruit has demonstrated remorse for the underlying wrongful conduct and has taken steps to bring his or her conduct into compliance with all relevant rules, regulations, and standards.

Mr. Bradley's wrongful conduct was serious. Writing a test answer on his hand immediately prior to the test is strongly indicative of an intent to cheat. Keeping a copy of the pre-test is additional indicia of failing to comply with test rules. No witness testified that they specifically saw Mr. Bradley cheat during the test, but the Board concludes that Mr. Bradley's conduct is serious even without direct evidence that he actually used the notes during the test.

Mr. Bradley displayed dishonesty by falsely stating that he wrote the notes on his hand earlier in the day, and not immediately prior to the test.

Mr. Bradley cooperated with the investigation. He answered Director Groszcyk's questions and showed Director Groszcyk the ink on his finger.

Mr. Bradley ultimately demonstrated remorse for his actions, though he initially did not. His initial statement to Director Groszcyk that he was sorry that MATC thought he was cheating does not demonstrate genuine remorse. (TSB Ex. 1:3.) He later expressed sincere apology and regret for his actions in writing. (TSB Ex. 4:24—25.)

The Board notes that witnesses testified that Mr. Bradley generally displays good character and integrity. (Tr. 37—38, 41, 47.) However, in this situation, the Board concludes that Mr. Bradley exhibited serious wrongful conduct and dishonesty during the investigation. He violated MATC testing policy, which warranted dismissal from the program.

The Bureau initially prohibited Mr. Bradley from re-enrolling in another law enforcement training academy or commencing law enforcement employment in Wisconsin for two years. (TSB Ex. 2:14—15.) That decision was appealed to the Director of the Bureau. (TSB Ex. 3:16—23.) On June 29, 2023, the Director reduced the time that Mr. Bradley was prohibited from re-enrolling from two years to one year. (TSB Ex. 5:26—31.)

The Bureau Director issued a decision explaining the factual basis for the affirmance and the criteria for the decision. (TSB Ex. 5:26—31.) Findings included that Mr. Bradley's "dishonest conduct was serious and inconsistent with fitness standards for law enforcement officers," that Mr. Bradley "displayed dishonest conduct during the investigation and appeal process," that he "cooperated with the investigation by answering questions," and that Mr. Bradley initially did not express remorse, but later clearly indicated remorse for his actions. (TSB Ex. 5:30.) Additionally, the Director found that the Bureau two-year prohibition was unduly harsh in light of precedential decisions. (TSB Ex. 5:31.)

Under Wis. Stat. § 165.85(3)(cm), the Board has discretion to determine whether and under what circumstances an individual who has been involved in a cheating incident may subsequently obtain eligibility for certification as a law enforcement officer. Here, giving weight both to the evidentiary record in this case as discussed above and to the important public policy of requiring police officers to be rigorously honest, the Board has decided, in the exercise of its discretion, that a suspension of one year is appropriate.

Considering the August 31, 2023, hearing testimony and the exhibits admitted into the record, the Board affirms the Bureau Director's decision to prohibit Mr. Bradley from re-enrolling in another law enforcement training academy or commencing law enforcement employment in Wisconsin for one year from May 1, 2023.

CONCLUSIONS OF LAW

1. The Law Enforcement Standards Board establishes the educational, training, and recruitment standards for admission to employment as a law enforcement officer in Wisconsin. Wis. Stat. § 165.85(3); Wis. Admin. Code § LES 2.01.

2. Under Wis. Stat. § 165.85(3)(cm), the Board has discretion to determine whether and under what circumstances an individual who has been involved in a cheating incident may subsequently obtain eligibility for certification as a law enforcement officer.

3. Mr. Bradley violated MATC's Recruit Training Program, General Rules of Conduct by writing percentage figures related to field validation for SFST on his hand prior to the SFST test.

4. The Bureau's decision agreeing with the dismissal of Mr. Bradley from MATC was correct, but the two-year suspension was excessive.

5. The Bureau Director's decision to lower the restriction from two years to one year from the date of May 1, 2023, was correct.

6. The Bureau Director's decision to restrict Mr. Bradley from re-enrolling in another law enforcement training academy in Wisconsin from two years to one year from the date of May 1, 2023, is **AFFIRMED**

DECISION

Mr. Bradley may not apply to re-enroll in law enforcement training academy in Wisconsin for a period of one year from the date of May 1, 2023.

NOTICE OF RIGHT TO FILE OBJECTIONS

Any party adversely affected by the attached proposed decision may file objections to it with the Board as provided in Wis. Stat. § 227.46(2). The objections must be submitted in writing and must briefly state the reasons and authorities for each objection. The objections may be accompanied by written

argument. The written objections and any accompanying argument must be submitted to Assistant Attorney General S. Michael Murphy, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin 53707-7857. Objections and arguments may also be submitted via e-mail to murphysm@doj.state.wi.us. All written objections and arguments must be received no later than November 7, 2023.

At its meeting on November 14, 2023, the Board will consider the proposed decision and any objections that may have been submitted and will thereafter issue a final written decision. The final written decision will be accompanied by a notice of appeal rights setting out the alternative methods by which a person may request administrative or judicial review of that decision.

Dated Friday, October 20, 2023.

STATE OF WISCONSIN
LAW ENFORCEMENT STANDARDS BOARD

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