

**LAW ENFORCEMENT STANDARDS BOARD (LESB)
PRT SUBCOMMITTEE MEETING**

MINUTES – MARCH 22, 2024

ATTENDANCE:

PRT SUBCOMMITTEE

Kelly Bakken
Shawn Becker
Ryan Chaffee
Christopher Domagalski
Susan Happ
Christy Knowles
Jeremiah Pritzl
Michelle Sandry
Mike Steffes
Nicole Waldner

ABSENT MEMBERS

Jeremy Peery
Heidi Studnicka

STAFF

Katie Maule
Jerry Mullen
Stephanie Pederson
Mark Rather
Dana Vike

Mark Westen

Guests: None

1. **Call the Meeting to Order** – Kelly Bakken called the meeting to order at 9:00 a.m.
2. **Introductions**
3. **Proof of Posting of Meeting Notices**
The meeting notice publication procedures were followed in compliance with Wis. Stat. §19.84.
4. **Review and Approve Minutes for the February 20, 2024, PRT Subcommittee Meeting**
 - Michelle Sandry was listed as staff; this should be changed to PRT Subcommittee member.
 - Shawn Becker was incorrectly listed as absent at the February 20, 2024, meeting.

Motion to approve the February 20, 2024, PRT Subcommittee Meeting Minutes with the above changes. Move by Christopher Domagalski, second by Ryan Chaffee. Motion carried unanimously.

5. Review Other State Physical Testing (Kelly Bakken)

There is a spreadsheet in the materials listing other states' physical testing information. The original spreadsheet was from 2016 and was provided by IADLEST. The information has been updated slightly.

Stephanie Pederson was able to get the spreadsheet from IADLEST and stated that the PRT has been a topic with IADLEST since at least 2008, when Stephanie became a member. Most states are onboard with having a PRT. There are a variety of PRT tests; some do agility testing, some do tests based on the original Cooper test, and a few have their own testing requirements. There have been PRT discussions at the last few IADLEST Executive Board meetings. The majority of states do not want to lower their PRT standards.

Kelly Bakken created a spreadsheet to make it easier to compare other state standards to Wisconsin's standards and shared this spreadsheet with the PRT Subcommittee. Among other findings, the majority of the testing sites use the 1.5 mile run, push-ups, and sit-ups, and from there it varies. One finding is that Wisconsin's standards are fairly low compared to the majority of other states.

Ryan Chaffee explained that Texas went to the Row Test. Representatives from Texas provided a demonstration for the Wisconsin State Patrol Academy. The test considers differences between men, women, age, and weight. The probability of injury is very low and oftentimes the row machine is used as a rehab tool for injuries. There are several different types of tests available. The 2,000-meter row is mandatory, and they can choose the test they would like for the second test. Texas also administers an agility test. Chris Domagalski added that candidates and incumbents are held to the same standard. Incumbents are given an incentive to those that pass with a 90% score. Incentives are specific to the Texas Department of Public Safety, but many departments are starting to adopt it. There is Texas legislation that requires officers to participate in a physical fitness standard. Texas is not a Union State, but there is a strong officer's association. The Wisconsin State Patrol Academy has been conducting the Row Test for five years in conjunction with the PRT and has seen evidence that if cadets reach a 50 percentile on the rowing machine, they are passing the PRT. Texas went to the Row Test due to the number of injuries which dramatically declined when the Row Test began. It tests VO2 max and fits in with the job well as it taxes both upper and lower body strength and gives a good overall picture of fitness.

Chris and Stephanie both feel the rowing test should not be used for entrance into the academy due to needing a rowing machine to practice ahead of time. However, it is a great choice for a fitness program at law enforcement agencies. The LESB only has statutory control over the academies, LESB has no control over agencies. If the PRT were to be changed to the Row Test, the LESB would have to purchase rowing machines for the academies. Legislative changes would have to be made for the PRT to be state mandated for incumbent officers.

Kelly Bakken shared that in 2021, the DOJ conducted a PRT survey and sent it to chiefs, sheriffs, and the law enforcement academies. Here are the questions and responses:

Should there be a PRT requirement for entrance into the law enforcement academy?

- More than 75% of those that responded stated that there should be a standard.

Does the current PRT accurately assess ability to perform essential law enforcement functions?

- Around 52% of those that responded stated that it does.

Shelly Sandry and Chris Domagalski both feel there is a lack of understanding of the purpose of the PRT to include all the work put into researching it, and the science behind the test.

Should there be a PRT requirement on an ongoing basis?

- Approximately 53.2% said yes.

One of the reasons we started the PRT standard at the academy level was to take the cost and liability off the local units and place it with the state.

Stephanie added that when the PRT was introduced at the academies, many departments began to push health and wellness and began incentive programs.

Mike Steffes added that more is carried on duty belts than in the past, adding up to 20 pounds or more that is being carried by an officer around their waist along with a possible rifle sling over the shoulder. It may be more important than ever to stay fit. Reduced standards may increase workers compensation claims down the road.

Nicole Waldner stated that with some of the recruits who have not passed the PRT at the Milwaukee Police Academy, simply did not try or properly prepare. Passing the PRT shows commitment to the job. Police officers can be an unhealthy group with stress, etc. The PRT is also about living healthy. It is a lifelong healthy skill. At the Milwaukee Police Academy there are extra physical training times added outside the academy hours along with Saturday Fit Camp. The staff joins in when the academy has extra workout sessions. Attendance at these extra workout sessions is taken, and there is a pattern of failing the PRT when personnel do not attend the extra workout sessions. There is not very much time built in for working out during the 720-hour academy classes.

Kelly Bakken stated that mental wellness and physical wellness go hand in hand. We can't teach just one and not the other.

Mike Steffes asked if there are any other states that we know of, other than Georgia, that are considering changing their PRT? Stephanie responded that most everyone is sticking with Cooper and FitForce because their tests are court defensible.

Going back to the first meeting, is the current PRT in Wisconsin discriminatory, or has it been shown to have a disparate impact on females? The AG's office has stated that it does have a disparate impact on females. If there is a disparate impact, do we have the documentation necessary to suggest that even though there is a disparate impact, the standards are still job specific and essential to the duties of the job? Also, if we argue that is an essential component, why are incumbents not doing it?

AAG Susan Happ answered, looking back at what Jeff indicated, the AG's conclusion was based on the pass rates for women based on data from the Bureau of Justice Information and Analysis.

Chris Domagalski also replied that there might be a slight disparate impact based on the data that's been collected. Has the data been reviewed to determine why that is and what is the cause? If you listen to the comments that Nicole makes, they are some of the same observations that Chris has that certain people that are taking the test are not committed to passing the test and have not done anything to prepare for or put themselves in a position to be able to pass the test. The other thing is when the lawsuits are looked at, none of them end up going to court, they are all being settled. What really happens if it goes to court, and the full argument is made? Will the outcome be the same?

Kelly Bakken agrees and adds that when speaking to the academy leaders, they are saying the same thing. The recruits who are not passing, are not putting the work in. Jay Smith also relayed that the test is doing what the test is supposed to do, the recruits who are not passing are being weeded out because they cannot do the job of a law enforcement officer.

Stephanie added that when the PRT was originally added to the academy, it was discussed to run the test the first day. There was a lot of push back as the academies felt it had to be done before day one. The Wisconsin State Patrol asked if they could give applicants six months because they didn't want someone to go through the background checks and hiring process and then not pass the PRT. Now, anytime within six months before the academy begins, up to the first day of the academy, the PRT can be completed.

Mark Westen mentioned that there was previous reference to a 4/5 rule, that this 4/5 rule is not being met. Does anyone have information they could share on this discussion? Susan responded that impact to a group (women in this case) at a rate greater than 4/5, if the passing grade is less than 80% for women, the rule of thumb, previously is that there is no disparate impact. That is no longer the case. Kelly Bakken stated that currently, women are at passing at a rate of 82%.

Stephanie Pederson said that there is a push for 30% females to be working in law enforcement by 2030. The initiative is called 30 X 30. When the Feds come in and talk about it at the IADLEST meetings, they agree that they don't want to see standards dropped, but they want to prepare females for the academy, so they are going to put some guidance out for agencies to try to recruit and better prepare females.

Nicole Waldner informed the subcommittee that there was a class of 46 that was put through the PRT on Monday at the Milwaukee Police Academy. Four of the 46 are females. On Tuesday, three males quit. Recruiting and retention is hard for this profession. The hours, working on holidays, and the safety factors are all reasons why people don't apply when they can make the same pay at another job. Looking at the people that do not pass rather than looking at the numbers would tell a different story.

Kelly Bakken compared Idaho's PRT to Wisconsin's PRT. Idaho's standards are overall higher than Wisconsin's standards, yet they have more female recruits coming in.

Mike Steffes noted that the Wisconsin PRT began January 1, 2016, and we're getting information back from the testing. Since it has been eight years, would this be a good time to bring in a consultant to look at the data and make a determination on job task functions of police officers to see if there have been any changes?

Stephanie reported that Wisconsin is the 12th highest state for female recruits. There is a push at the federal level to have national standards. This past summer, IADLEST started to collect job task analysis data to try to come up with a nationwide Job Task Analysis. There might be some information coming out on those findings soon. It might save the state some money if we wait for the IADLEST findings. It may take a year to get the data.

6. Next Steps

Kelly Bakken used Mike Steffes' point, that the subcommittee could forward to the LESB the suggestion to bring in a consultant to revalidate the PRT and provide other options for a PRT.

There is less liability with the PRT if there is incumbent testing. The subcommittee may suggest that the LESB work on legislation to begin fitness testing for incumbents. With incumbent testing, Susan explained that if there is found to be a disparate impact, then the burden shifts to the employer.

Stephanie added that unions may offer pushback for incumbent fitness testing. If there is incumbent testing, it may have to be a program that has time for roll out. It cannot be done quickly. A suggestion was made to potentially grandfather current incumbents, for example, anyone hired prior to 2024 would not be subject to the new legislation. The key stakeholders will need to be engaged, the chiefs and sheriffs, the unions, the municipalities, and the local

units of government. Nicole added that Act 12 will be a hurdle. Mike added that there will be injuries and worker's comp claims due to the workouts both on and off duty.

Motion to move forward with the next steps listed above. Move by Ryan Chaffee, second by Christopher Domagalski. Motion carried unanimously.

Ron Betley would like to clarify the components of the motion and get members of the subcommittee to volunteer to look into the next steps as it would be difficult for the limited staff of the Training and Standards Bureau (TSB) to look into this by the next meeting. Can we solidify in a bullet format the exact components of the motion and assign volunteers to follow up with this subcommittee? Also, the TSB member on the subcommittee should not be part of the group that takes a deeper look into the bullets, as the TSB was in the group that took part in investigating the current PRT.

Kelly explained that this subcommittee is tasked to make recommendations to the LESB. No one on this committee has the expertise to review the validity of the PRT or to recommend another type of testing. That will take funding. Stephanie believes that the last validity study, which was done by FitForce around 2014, cost approximately \$50,000. A full study would have been approximately \$150,000. If the LESB moves forward with finding a company to validate the PRT, if the DOJ decides it is something they can fund, the DOJ will initiate an RFP for companies to bid on the contract.

Stephanie emailed the IADLEST Executive Director asking to have the IADLEST regional reps identify experts that other states have used to validate their Physical Readiness tests. Stephanie will contact Guam to find information about their incumbent testing. She has also asked the IADLEST Executive Director about the National Job Task Analysis and if there will be a component for PT.

Stephanie will also ask what company Texas and Georgia used for the rowing test. Chris stated that Lubbock, Texas, used the National Testing Network out of Linwood, Washington, for validation. The National Testing Network's website shows that they are the leader in public safety simulation test development and has 2,500 clients.

Shelly Sandry asked if there are national chiefs' and sheriffs' email list serves? Kelly stated that this group could reach out to the directors of the chiefs' and sheriffs' associations.

Kelly suggested that she, Stephanie, and Mike Steffes meet to go over the information that is received in the future.

Dana will send the 2021 survey to the subcommittee members via email.

7. Public Comment

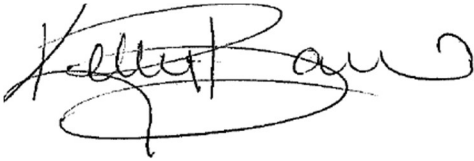
A comment was put in the chat from Deputy Rodriguez: Great discussion, I would like to listen in on future conversations surrounding PRT. I am a female recruiter and PRT instructor. I have to jump off the meeting but would like to share a few ideas and thoughts down the line. Shelly believes Deputy Rodriguez is from Milwaukee County.

8. Round Table

Nothing to report.

9. Adjourn.

Motion to adjourn by Christopher Domagalski, second by Mike Steffes. Motion carried unanimously.

A handwritten signature in black ink, appearing to read "Kelly Bakken". The signature is stylized with large, sweeping loops and a long horizontal stroke at the bottom.

Kelly Bakken
LESB Physical Readiness Test (PRT) Subcommittee Chairperson

Minutes taken by Dawn Strassman