

Law Enforcement Standards Board (LESB)
Special Meeting
May 24, 2022

IV. Consider Training and Re-Testing Options for College Certification Track Law Enforcement Student Training Failures at Lakeshore Technical College

May 16, 2022

Department of Justice
Law Enforcement Standards Board
P.O. Box 7857
Madison, WI 53707-7857

Dear LESB:

In response to the results of our recent academy scenario testing, please accept this letter seeking temporary waiver of the following Law Enforcement Preparatory Training rule:

Any student who fails one testing scenario will be scheduled for a re-test during the same scenario testing event. The consequence of failing the re-test scenario is failure of preparatory training.

d. The consequence of failing two testing scenarios is failure of preparatory training. (Note: academies may remove a student upon the failure of two testing scenarios, as the student has failed preparatory training. However, the academy may allow a student who fails two testing scenarios to continue testing to determine if the student would fail additional scenarios, and/or to lessen any disruption to other students undergoing testing. If the student is allowed to continue, the student shall not be informed of their failures until completion of all scenarios.)

e. Each testing scenario has a list of required student actions. To pass a testing scenario the student must perform all of the required actions for that scenario. Failure to perform all of the required actions results in the failure of that testing scenario.

Our academy experienced a situation that resulted in 15 of 18 candidates failing due to the search incident to arrest process. The vastness of this failure creates concern for our academy that a systemic problem exists with the reinforcement of this concept as opposed to just an isolated incident with a few students forgetting this process.

To ensure incidents like this do not happen again, LTC's Law Enforcement Academy is committed to:

- Retrain all students on the search to arrest procedure
 - This was completed on May 12, 2022 from 8:00-12:00
- Retrain all instructional assistants on proper practice session corrective action.
- Adding an additional staff member to our practice scenario pool with the sole purpose of identifying inconsistencies in training and evaluation. This will be similar to the scenario administrator but permits more scrutiny of the evaluation process to ensure inappropriate behaviors are adequately addressed and not simply ignored or minimized.

Paul Carlsen, Ph.D., President

- Adding at least three additional Defense and Arrest Tactics instructors over the next year to ensure a broader pool of qualified instructors in this topic area to better ensure the instructional assistants supporting this training bear this credential and subject matter expertise.
- Dedicating additional financial resources to the recruitment of our vacant full-time law enforcement academy instructor
- Scenario Administrator to attend another academy's scenario testing, seek DOJ's suggestion on an academy to complete this with.

If the LESB is willing to consider a temporary waiver of this rule, for this cohort, our academy wishes to provide a retest option to include two scenarios. Each scenario must be passed on the first attempt, with no retest option. The topics of the two scenarios will be:

- Search
 - Abandoned building, cooperative homeless suspect, has a warrant
- Frisk
 - Suspicious person in area of recent burglaries, verbally uncooperative, no crime, no warrant, no arrest

We appreciate the LESB's consideration of this waiver.

Sincerely,



Jeremiah Pritzl,
LTC Academy Director

Enc.

Handcuffing/Searching Remediation Lesson Plan

Due to Capstone failure on 5/10/22

Instructors: Jeremiah Pritzl and Jim Gottsacker

Day 1

5-12-22 – 4 Hours

TIME	DESCRIPTION	NOTES
4 Hours	Attendance Search vs. Frisk Review Practice Searches Scenario Practice with full handcuffing and full search	Review DAAT slide 62 and page 114 in DAAT manual PRACTICE Hands on Activity related to complete proper search incident to arrest

May 18, 2022

Wisconsin Department of Justice
Law Enforcement Standards Board (LESB)
P.O. Box 7857
Madison, WI 53707-7857

Dear LESB:

This follow-up letter is in response to the Scenario Testing with the Spring 2022 cohort at Lakeshore Technical College. The testing resulted in 15 out of 18 candidates failing based on the directive from the DOJ Field Representative. All these perceived failures were related to the Loud Music Arrest test out scenario for failure to complete a proper search incident to arrest.

According to the WI DOJ DAAT Manual, searching a person "incident to arrest" is a 23-step process. All 15 of the students that "failed" completed steps defined in this process. There was a disagreement between the LTC Academy Scenario Exercise Control Officers: Gottsacker, Liermann, and Pritzl and the WI DOJ Field Representative, Dan Ruzinski during the initial and retest scenarios as to whether the students' searches of the role player were thorough enough.

During the scenario testing, students asked if the role player had any dangerous items or weapons on them. They subsequently searched the waist area (front, sides, and back), searched the torso from the top down (front, sides, and back), sleeves, abdomen, the entire length of both legs, socks, boots, and the inside of the leg up to the groin as well as the groin from front to back. All these elements are beyond the scope and legal justification of a "frisk" for weapons, and according to the 4th Amendment, qualify as a "search" incident to arrest.

The concern that Field Representative Ruzinski raised was that the students did not insert their hands into the suspect's pockets. Exercise Control Officers Pritzl, Liermann, and Gottsacker noted and expressed that the students repeatedly felt the outsides of each pocket and/or manipulated the pocket by crunching the material in their hands. These actions exceed the scope and legal justification of a "frisk" and qualify as a "search" incident to arrest. Instructors did note that the students did not complete all 23 steps in the search process per the WI DOJ DAAT manual; however, they exceeded the scope of a frisk, and therefore, these actions do qualify as a search, and the omitted steps could be remediated after the scenarios were completed.

According to an addendum in WI State Statute 968.25 and in the WI DOJ DAAT manual, a frisk is carefully limited search of outer clothing to discover weapons that could be dangerous to the officer or others. A "frisk" is only a 6-step process, and you feel, over the clothing, areas that are most likely to contain a weapon. These areas include the waistline, torso, and pockets. It does not include a wide

Paul Carlsen, Ph.D., President

variety of other areas the students physically inspected during their search. According to the WI DOJ Constitutional Law manual, if an officer detects contraband by their sense of touch, it must be immediately apparent, based on training and experience, that the item is contraband to seize it. The students manipulated all the role player's pockets and/or felt over them repeatedly, both of which exceed the scope of a frisk, plain feel, and qualify by Wisconsin legal definition as a search.

According to the scoring rubric for the initial Loud Music Arrest test out scenario and the Disabled Vehicle arrest retest scenario, the student must "conduct a search incident to arrest" to pass the scenario, no further guidance or clarification on what constitutes a successful attempt versus a failing attempt is provided. This leaves the evaluation of acceptable performance to the discretion of the certified and qualified Exercise Control Officer. Furthermore, the WI DOJ Scenario Testing and Training Manual, states it is the responsibility of the Exercise Control Officer to perform "coaching, teaching, evaluation, and safety in the scenario".

Based on the above-listed information, LTC Academy Scenario Exercise Control Officers agree that the students did conduct a search incident to arrest and meet the criteria for passing the scenarios as demonstrated. The ECOs were instructed by Field Representative Ruzinski to fail the students for not physically inserting a hand into the role player's pockets. It should also be noted that Exercise Control Officers Gottsacker and Liermann did not check the "fail" box on the retest checklist. Exercise Control Officer Pritzl did check the "fail" box, but upon further examination, as detailed above, has changed his position to these candidates demonstrating acceptable performance constituting a passing attempt.

Our concern as Certified Scenario Exercise Control Officers is regarding the scope of our job duties and authority as well as those of the WI DOJ Field Representative's authority. These need clarity. As Exercise Control Officers, is it our responsibility and duty to compare the candidate's performance against the test rubric and evaluate the student's performance as a passing or failing attempt? We believe so, and the Scenario Testing and Training Manual states this. Based on this, it is our position that each of these 15 candidates passed their Loud Music Arrest test out scenario and their Disabled Vehicle Arrest retest scenario. If the WI DOJ wishes to overrule this position, it is certainly within their authority. However, we wish to make an official position that the performance demonstrated by these 15 candidates did constitute a "search incident to arrest" and as such should be considering a passing effort based on our DOJ Exercise Control Officer appointed position and responsibility, professional judgment, training, test rubric criteria, and knowledge of constitutional law.

Respectively submitted,



Jeremiah Pritzl
Academy Director



James Gottsacker
Exercise Control Officer



Jason Liermann
Exercise Control Officer

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- V. Consider Certification Status of Lakeshore Technical College as a Provider of College Certification Track Law Enforcement Training**

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V. Consider Certification Status of Lakeshore Technical College as a Provider of College Certification Track Law Enforcement Training

Staff Note: Recommend Probationary Status for Lakeshore Technical College

On Tuesday, May 10, 2022, Lakeshore Technical College (LTC) conducted testing scenarios for class LE720 21-016 (CCT), with 18 students. Fifteen of the 18 students failed the Professional Communication Skills (PCS) – arrest scenario due to failure to conduct a proper search incident to arrest. The students were retested in accordance with the scenario manual. All 15 students failed the retesting scenario resulting in the failure of preparatory training. Included with this staff note is the Scenario Monitoring Report prepared by Field Representative Dan Ruzinski documenting his observations and investigation into the cause of the significant number of failures.

The policy in the scenario manual is clear regarding testing scenarios and the consequences for failing two testing scenarios:

Any student who fails one testing scenario will be scheduled for a re-test during the same scenario testing event. The consequence of failing the re-test scenario is failure of preparatory training.

- The consequence of failing two testing scenarios is failure of preparatory training. (Note: academies may remove a student upon the failure of two testing scenarios, as the student has failed preparatory training. However, the academy may allow a student who fails two testing scenarios to continue testing to determine if the student would fail additional scenarios, and/or to lessen any disruption to other students undergoing testing. If the student is allowed to continue, the student shall not be informed of their failures until completion of all scenarios.)*
- Each testing scenario has a list of required student actions. To pass a testing scenario the student must perform all of the required actions for that scenario. Failure to perform all of the required actions results in the failure of that testing scenario.*

A deviation from the policy requires the approval of a waiver. LTC Academy Director Jeremiah Pritzl has formally requested the approval of a waiver. The proposal is included with a detailed remediation plan to address the shortcomings of the training and prevent a failure to train for future academies.

This situation is unprecedented. There are several mitigating and aggravating circumstances that should be considered by the Board:

In mitigation, the number of students failing (84%) is evidence of a systemic issue. Field Representative Dan Ruzinski reviewed the lesson plans for DAAT and interviewed instructors and students. It is clear the

proper custodial search techniques were taught, but it also appears that there was not sufficient emphasis or training repetitions to reinforce the fundamentals.

Five agencies will be impacted by the failure of the students. The Manitowoc County Sheriff's Office, the Fond du Lac County Sheriff's Office, the Sheboygan Police Department, the Two Rivers Police Department, and the Kiel Police Department have either hired or provided conditional offers of employment to students who failed the scenarios.

In aggravation, approval of this waiver may establish a precedent that diminishes the intent of the standard. The testing scenarios are designed to evaluate the judgement of the students to apply the proper response to the actions of the role players. Given the high stakes of not passing the testing scenarios, some students will experience a level of stress or anxiety. This is by design and is a productive form of stress inoculation to prepare the students for the stress they will face outside of the training environment. Although the facts in this case are unique and it is unlikely that a future student would be successful in arguing for a second retest after failing two scenarios.

After careful consideration of the above factors, the staff recommends approval of the waiver request with the following conditions:

- A one-year probationary period be implemented for the LTC Law Enforcement Academy.
- The requirement for a remediation plan has been satisfied pursuant to the proposal submitted by Academy Director Pritzl.
- LTC shall provide TSB a progress report detailing the specific reforms implemented by staff to ensure compliance. The reports shall be submitted in six-month intervals during the course of the probationary period.
- The next audit shall be scheduled in one year instead of the normal two-year cycle for the purpose of monitoring the level of compliance with LESB standards. LTC is currently certified until December 2023. The next audit shall be scheduled for completion prior to December 2022.



LESB CERTIFIED ACADEMY SCENARIO MONITORING REPORT

Training School: Lakeshore Technical College

Region: 3

Bureau Representative: Daniel Ruzinski

Date: Tuesday, May 10, 2022

Purpose of Contact: ☐ Training Scenario ☒ Testing Scenario ☐ Other

LE ☒ Jail ☐ JD ☐ College Cert. Track ☒

Scenario Category: Domestic

Resolution: PCS Arrest

Instructor Name	Certified		
1. Pritzl, Jeremiah	☒ Yes	☐ No	☒ ADMIN ☐ SAFETY ☒ ECO
2. Mares, Jeffery	☒ Yes	☐ No	☐ ADMIN ☒ SAFETY ☐ ECO
3.	☐ Yes	☐ No	☐ ADMIN ☐ SAFETY ☐ ECO
4.	☐ Yes	☐ No	☐ ADMIN ☐ SAFETY ☐ ECO
5.	☐ Yes	☐ No	☐ ADMIN ☐ SAFETY ☐ ECO
6.	☐ Yes	☐ No	☐ ADMIN ☐ SAFETY ☐ ECO
7.	☐ Yes	☐ No	☐ ADMIN ☐ SAFETY ☐ ECO
8.	☐ Yes	☐ No	☐ ADMIN ☐ SAFETY ☐ ECO

	Yes	No	N/O		Yes	No	N/O
Safety briefing conducted	☒	☐	☐	Unauthorized access prevented	☒	☐	☐
Site safety inspection conducted	☒	☐	☐	Role player briefing conducted	☒	☐	☐
Triple-search conducted	☒	☐	☐	Students issued all duty gear	☒	☐	☐
Search by staff	☒	☐	☐	Students and role players wear same protective gear for all scenarios (testing scenarios only)	☒	☐	☐
Proper safety equipment used	☒	☐	☐	Evaluators followed LESB scenario guidelines	☒	☐	☐
Training site signage properly displayed	☒	☐	☐	Role Players followed LESB scenario guidelines	☒	☐	☐

In Compliance ☒ Non-Compliance (Comments and Academy Director signature required) ☐ Corrected on Site (Comments and Academy Director signature required) ☐

Comments: Eighteen students participated in the Testing Scenarios. Fifteen of the 18 students failed the PCS Arrest scenario. They all performed a pat down and not a search incident to arrest. The 15 students also failed the re-test scenario. I observed 12 of the students that failed the first scenario and the second scenario. As they were failing, I spoke with the ECO, Jeremiah Pritzl, who is also the Academy Director. We discussed the number of failures for this scenario. It appeared perhaps there was a training issue, and I may be filing a non-compliance report for failure to properly train. We discussed the training that had occurred, and that the proper training had been conducted. Mr. Pritzl also reviewed the lesson plans for DAAT, and searches were covered. I requested of Mr. Pritzl to interview one of the three students that passed as to why they did what they did in the scenario. We interviewed Zayla Mueller who related the following when asked why she did what she did in the scenario. When she was informed that the subject had an active warrant, she advised him he was under arrest. He was placed in handcuffs, and she then searched him going into his pockets starting with the right side. I asked her why she went into the pockets, and she replied because she was conducting a search incident to arrest. When asked if this was different than a pat down, she replied that a pat down is on the outside of the clothing and is a search for weapons. A custodial search is more intrusive with going into pockets. She went on to state she received this instruction in Phase Two of the academy and it was also discussed and practiced in Phase Three of the academy during scenarios. This training and practice was received by all the students in her class. We investigated further and spoke with Instructor Jason Liermann who was one of the instructors who conducted practice scenarios on Monday, specifically PCS arrest and searches. He advised that he observed Instructor Sheriff Dan Hartwig inform the students that in order to perform a proper search you must go into the pockets "when you are done, the suspect should look like his pants just came out of the dryer with the pockets turned out." Mr. Pritzl contacted Sheriff Hartwig by phone, and I overheard the conversation. Sheriff Hartwig confirmed that he had instructed the students as to how to conduct a search incident to arrest as stated by Mr. Liermann. Two practice scenarios had been conducted regarding a search incident to arrest with the students doing well. The additional practice scenarios were focused on deadly force and domestic violence as the students were



LESB CERTIFIED ACADEMY SCENARIO MONITORING REPORT

struggling with those scenarios. I advised Director Pritzl that it appears that the proper training was conducted, and I would not be filing a failure to train report.