

Commission on Law Enforcement Accountability, Community and Transparency

Meeting Minutes for July 29, 2020

Meeting held via videoconference at the Attorney General's Office in Concord, NH.

Deputy Attorney General Jane Young called the meeting to order at 9:04 a.m. and reminded participants that the meeting was being recorded.

Members were then asked to introduce themselves and state their present location for the record.

Deputy Attorney General Jane Young - from the Department of Justice with Kim Schmidt and Annie Gagne

Robert Quinn, DOS Commissioner - Concord, NH

Ahni Malachi, Executive Director, NH Commission for Human Rights – Penacook, NH

John Scippa, Director of Police Standards and Training Council – Concord, NH

Rogers Johnson, Chair of the Governor's Advisory Council on Diversity and Inclusion – Stratham, NH

James McKim, President of NH NAACP - Goffstown, NH

Sawako Gardner, Justice of the NH Circuit Court – joined at 9:30 a.m.

Mark Morrison, New Hampshire Police Association – Londonderry PD

Charlie Dennis, NH Chief Association – Hanover, NH

Ken Norton, Executive Director of NAMI – Penacook, NH

Joseph Lascaze, NH ACLU representative – Bedford, NH

Julian Jefferson, Criminal Defense Representative – Manchester, NH

Ronelle Tshiela, public member and BLM organizer – Durham, NH

Eddie Edwards, public member – Dover, NH

The Deputy Attorney General requested the approval of the July 24th, 2020 minutes. Motion to approve by Joseph Lascaze and seconded by Commissioner Quinn. A roll call vote was taken and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y

Commissioner Robert Quinn – Y

Director Ahni Malachi – Y

Director John Scippa – Y

Chairman Rogers Johnson – Y

President James McKim – Y

Justice Sawako Gardner – N/A

Lt. Mark Morrison – Y

Chief Charlie Dennis – Y

Director Ken Norton – Y

Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – Y

The Deputy Attorney General stated today's meeting would involve discussing our recommendations on training curriculum, procedures and policies developed by PSTC, State Police and local police departments, including potential options to improve use of force, diversity and de-escalation.

Chief Eddie Edwards

Implicit bias training, de-escalation training, procedural justice, reporting misconduct. Current 8 hours clearly defined to reduce costs and give structure. Support PSTC having required personnel to guide these trainings. Academy has unit but not specifically staffed for these areas of concerns.

- Jane Young – could those be part of the 8 hours already existing
 - o Yes, need to clearly define those hours

Attorney Julian Jefferson

Duty to report misconduct, duty to intervene, adopting policy on strangle holds. Aware legislation is in progress regarding two of these areas, but message needs to be sent through official policy – state wide code of conduct policy. Likes Chief Edwards scenario based training recommendation. Moving SAG into police training. Language to adopt, like Director Norton's recommendation about training (would use verbatim) and standardizing the hours. Director Scippa's recommendation on PSTC that covers state law about racial suppression or profiling, would encourage broad council of staff to teach that topic. Also supports fair training.

Joseph Lascaze

Qualified in house specialist to assist with culture shift. Implicit and racial bias training thematic. Offer engagement portion where community interacts with law enforcement. Guest facilitators. Disproportionate arrest rates, need to be aware what it happening (not theorized), add this to part of training. Fully support statewide use of force policy adopted by PSTC. Decertification process. Concerned about financial impact, we need costs associated with these recommendations.

Ken Norton

Give PSTC authority to mandate specific training. Increase hours for recertification training. Increase in mental health training. Address SROs

Chief Dennis

Implicit bias and de-escalation training. ABLE training (duty to intervene and duty to report). Take existing 8 hours and structure. Support statewide use of force policy (departments can go above and beyond). Policies should be PSTC and state supported. Standardized, statewide code of conduct (agencies have authority to go above and beyond).

Lt. Morrison

Support accreditation model (CALEA or state model). Standardize policy. Increase training hours.

President James McKim

Increased implicit bias training to include de-bias training (should be mandatory). State of the art data gathering. Qualified immunity. Funding concerns.

Chairman Rogers Johnson

Implicit bias training, should be for existing police officers (renewed training). De-escalation and use of force. CALEA reference to keep training standards as high as possible.

Director Scippa

Ethics training and cultural diversity training. Embrace statewide fair and impartial policing model. ICAC training (de-escalation and thematic), ABLE training. Increase in-service hours (32 hours/year). Scenario training increased. Technology for online training.

Director Ahni Malachi

PSTC standard for statewide training. Statewide accreditation. ABLE, fair and impartial, de-escalation, use of force continuum, thematic. Additional grants to shore up any local funding to bridge the gap. Study commissions so we have NH statistics for training and to better track items.

Commissioner Quinn

Think about being clear with dates, maybe tiered approach. Diversity – hiring, recruiting, etc. Accreditation/standards, what are minimum we want to reach, what are our goals? Mental wellness – need for synergy with psychologists, dealing with de-escalation. Training – CIT, ABLE, etc. PSTC – specific recommendations for this, what they will specifically offer.

Judge Gardner

PSTC – statewide accreditation program, cultural dynamics, use of force, de-escalation, implicit bias. Phasing out PT academy (gateway to hiring those not able to go to FT academy), review certification process. Recruitment, hiring, mental health screening.

The commission began to summarize the recommendations:

- Training will be mandatory, start at the academy, thematic, throughout career
- Implicit bias and de-bias training, de-escalation, procedural justice, duty to report
 - o Can be implemented starting January, 2021
 - o Primex helping to offset costs, NH Chiefs of Police sponsoring class
- Major concerns around funding
 - o We cannot craft the budget, our charge is to provide recommendations and Governor and legislature will work the funds
 - o Prioritize recommendations with funding in mind
- A lot of these trainings already exist and PDs attend these trainings in various avenues, so not all will fall on PSTC
- PSTC wants to track training of all officers (career path assistance)
- First tier – what can we implement quickly and be effective (can do in 6-9 months)
 - o Fair and impartial policing
 - o Integrated communications and tactics
 - o Active bystander in law enforcement
 - o Ethics
 - o Cultural diversity
 - o Reporting of misconduct
 - o Implicit bias
- Second tier – long term goals, more funding, better resources, etc.
 - o Software to track officers
 - PD jumping
 - Decertified
 - Substantive complaints
 - o Online training
 - Standardize training
 - o Accreditation (state level, 3 years to accomplish)
 - o Mandatory in-service training (rule change by Council)

Ken Norton makes a motion to move forward with recommendations one and two that Chief Dennis and Director Scippa put forward. These are:

1. NHPSTC should **conduct a Job Task Analysis** for entry level police officers and entry level corrections officers and based on those findings, conduct an overall review of the present Academy curriculums. Based on curriculum changes founded in the JTA, an

extension of the length of the police academy beyond its current 16 weeks may be warranted. (Major funding necessary if done by an outside company, UNH Justice Works prepared to complete this in the Spring of 2021).

2. NHPSTC needs to **leverage technology** and be allowed to purchase and deploy a robust database management system and on-line learning platform for the **twofold purpose** of, 1) **maintaining a full record over the course of an officer's career** of their training completion, any incidents of sustained misconduct, movement from one agency to another and/or decertification, and 2) to **develop and deliver standardized on-line training to all NH law enforcement** in an efficient and economical way. (While this would have major financial impact, this money was appropriated and now sits in our capital reserve budget. We would need permission of the Governor's office to proceed with the expenditure of the fund and with the understanding that annual funding would be necessary to maintain the system).

Chief Dennis seconds the motions. After conversation, the motion is withdrawn.

- 8 hour requirements, define and implement for 2021. 16 hour requirements, define and implement for 2022, and so on until 32 hours
- 2-4 hours on implicit bias
- 2-4 hours de-escalation
- 2-4 hours use of force
- Chiefs and PSTC provide budget requirements to legislature for 2021
- Make sure recommendations separate sworn officers and new recruits

Attorney Julian Jefferson moves and Joseph Lascaze seconds the following motion:

No later than September 15, 2020 the Director of NH Police Standards and Training shall initiate emergency rulemaking to allow Police Standards and Training the authority to determine and mandate completion of specific training programs as part of the annual recertification process for law enforcement in NH. The Director shall adopt such rules by December 15, 2020. The Director shall seek input from all relevant law enforcement agencies.

Beginning April 1, 2022, the number of hours of training required for police officer recertification in NH (exclusive of firearms qualification, first aid and CPR certificate renewal, and defensive tactics refreshers) will be sixteen hours annually. Beginning on April 1, 2023, the number of hours of training required for police officer recertification in NH will be twenty-four hours annually.

Beginning on April 1, 2021, all police officers in the state of NH must complete a minimum of two hours in training, approved by NH Police Standards and Training, in implicit bias and cultural responsiveness as part of their recertification process for 2021. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

Beginning on April 1, 2021 all police officers must complete a minimum of two hours of approved ethics trainings annually as part of their recertification process. NH Police Standards and Training will be responsible for reviewing and publishing a menu of approved ethics training.

Beginning on April 1, 2021 all police officers must complete a minimum of two hours of approved de-escalation training annually as part of their recertification process. NH Police Standards and Training will be responsible for reviewing and publishing a menu of approved de-escalation training.

Trainings will be in implicit bias, ethics and de-escalation are part of the current and future hours of training.

- Attorney Jefferson moved to amend the recommendation to remove the December 15, 2020 deadline. Joseph Lascaze would like it worded as “as soon as practical.”
- Lt. Morrison edits removal of sentence “This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.” Replace with community partner(s) from the NH NAACP, NH ACLU, NH Commission for Human Rights, or equivalent community partner(s). ~~The actual training to be performed by Police Standards and Training Council (PSTC).~~”

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – Y

Motion carries. Final recommendation is as follows:

1. *No later than September 15, 2020 the Director of NH Police Standards and Training shall initiate emergency rulemaking to allow Police Standards and Training the authority*

to determine and mandate completion of specific training programs as part of the annual recertification process for law enforcement in NH. The Director shall adopt such rules as soon as practical. The Director shall seek input from all relevant law enforcement agencies.

- 2. Beginning April 1, 2022, the number of hours of training required for police officer recertification in NH (exclusive of firearms qualification, first aid and CPR certificate renewal, and defensive tactics refreshers) will be sixteen hours annually. Beginning on April 1, 2023, the number of hours of training required for police officer recertification in NH will be twenty-four hours annually.*
- 3. Beginning on April 1, 2021, all police officers in the state of NH must complete a minimum of two hours in training, approved by NH Police Standards and Training, in implicit bias and cultural responsiveness as part of their recertification process for 2021. This should be accomplished with community partner(s) from the NH NAACP, NH ACLU, NH Commission for Human Rights, or equivalent community partner(s). The actual training to be performed by Police Standards and Training Council (PSTC).*
- 4. Beginning on April 1, 2021 all police officers must complete a minimum of two hours of approved ethics trainings annually as part of their recertification process. NH Police Standards and Training will be responsible for reviewing and publishing a menu of approved ethics training.*
- 5. Beginning on April 1, 2021 all police officers must complete a minimum of two hours of approved de-escalation training annually as part of their recertification process. NH Police Standards and Training will be responsible for reviewing and publishing a menu of approved de-escalation training.*

Trainings will be in implicit bias, ethics and de-escalation are part of the current and future hours of training.

Rogers Johnson moves and Chief Dennis seconds the following recommendation:

- 6. NHPSTC should conduct a Job Task Analysis for entry level police officers and entry level corrections officers and based on those findings, conduct an overall review of the present Academy curriculums. Based on curriculum changes founded in the JTA, an extension of the length of the police academy beyond its current 16 weeks may be warranted.*
- 7. NHPSTC needs to leverage technology and be allowed to purchase and deploy a robust database management system and on-line learning platform for the twofold purpose of, 1) maintaining a full record over the course of an officer's career of their training completion, any incidents of sustained misconduct, movement from one agency to another and/or decertification, and 2) to develop and deliver standardized on-line training to all NH law enforcement in an efficient and economical way.*

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – Y

The Commission broke for lunch at 12:37 p.m. and will reconvene at 1:30 p.m.

Nicole Clay has joined the room with Deputy Attorney General Jane Young, Kim Schmidt and Annie Gagne.

The Commission discussed whether having PSTC require each agency to conform with CALEA accreditation would cover everything we are trying to achieve the with our policy recommendations. Director Scippa sent out an IACP document that broke down a policy review about the use of force. This could speak to all our concerns and help develop a statewide approach, but that would require hiring personnel and then develop the policy. Would adopting IACP guidelines help? Under RSA 106-L, PSTC has authority to create policy

Director Ahni Malachi moves to accept the following recommendation with a second from Julian Jefferson:

8. *NHPSTC, in collaboration with other law enforcement agencies, using nationally vetted best practices as set forth by IACP, CALEA, PERF, and NOBLE, shall create policy guidelines on the following topics that serve as a minimum standard with which all law enforcement agencies must comply.*
 - *Use of force policy*
 - *Duty to Intervene*
 - *Code of Conduct*
 - *Duty to Report Misconduct*
 - *Prohibition of chokeholds*
 - *Procedures to guard against positional asphyxia*

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – Y

Motion carries and recommendation is adopted.

Direct Scippa moves to accept the following recommendation, Director Ahni Malachi seconds the motion:

9. *Scenario based training should be increased by NHPS&T and Law Enforcement Agencies.*

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – Y

Motion carries and recommendation is adopted.

Lt. Mark Morrison moves to accept the following recommendations, Ken Norton seconds the motion:

10. *NHPSTC will improve and augment police academy training on diversity by conducting a review of the present lesson plan on cultural dynamics and amend it to properly address the topic.*
11. *NHPSTC should improve and augment police academy and in-service training on implicit bias and procedural justice by adopting the International Association of Chiefs of Police, (IACP) recognized Fair and Impartial Policing training or similar type training.*
12. *NHPSTC should improve and augment police academy and in-service training on de-escalation techniques by adopting the Police Executive Research Forum's Integrated Communication and Tactics training, (ICAT) or similar training.*
13. *NHPSTC should improve and augment police academy training on police ethics by re-instituting the Ethics block of instruction.*
14. *NHPSTC should improve and augment police academy and in-service training on the duty to intervene by adopting the Georgetown University's Active Bystandership Law Enforcement (ABLE) training, (formally known as EPIC training) or similar training.*

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – Y

Motion carries and recommendation is adopted.

Commissioner Rogers Johnson moves to accept the following recommendation, Director John Scippa seconds the motion:

15. *NHPSTC should include NH v Ernest Jones and any other State court decisions where race or protected class was a matter the court considered while reaching its decision.*

These cases should be part of the lesson plan in those relevant topic areas that are already delivered. An attorney from the Attorney General's Office will be dedicated to teach at NHPSTC and regularly updated materials.

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – Y

Motion carries and recommendation is adopted.

Rogers Johnson moves to accept the following recommendation, Judge Gardner seconds the motion:

16. Recognizing that certain NH police agencies need to rely on part time police officers, NHPSTC should consider re-evaluation of the Part Time Police Officer certification process and consider extending the length of such training and give certain consideration to what law enforcement functions part time officers be allowed to perform.

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y

Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – absent

Motion carries and recommendation is adopted.

The commission had various discussion regarding accreditation and how best to implement for police departments.

Eddie Edwards moves to make the following recommendation, Director Ahni Malachi seconds the motion:

17. A study committee should be created to consider the following: All law enforcement agencies should seek CALEA accreditation. In the absence of CALEA accreditation, agencies should continually review and maintain policies consistent with nationally accepted best practices.

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – abstain
Mr. Joseph Lascaze – abstain
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – absent

Motion carries and recommendation is adopted.

Attorney Julian Jefferson moves to make the following recommendation, John Scippa seconds the motion:

18. NHPSTC should amend our administrative rule POL 301.05 Background Investigations to mandate the background investigation to specifically vet the candidate in the area of having demonstrated outward bias of a protected group by way of past history, behavior, affiliation with a subversive group, social media posts and other objective sources to help determine the overall fitness for duty the candidate possesses and to consider those findings in the overall decision to hire the candidate.

A roll call vote was taken on the motion and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – absent

Motion carries and recommendation is adopted.

The Commission noted they would need to make a recommendation regarding the addition of staff at NHPSTC and would add it into the catch all section.

The Deputy Attorney General requested a motion to adjourn. So moved by Mr. Joseph Lascaze and seconded by Director Ahni Malachi. A roll call vote was taken on the motion to adjourn and the votes were recorded as follows:

Deputy Attorney General Jane Young – Y
Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – absent
Justice Sawako Gardner – Y
Lt. Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Mr. Joseph Lascaze – Y
Attorney Julian Jefferson – Y
Mr. Eddie Edwards – Y
Ms. Ronelle Tshiela – absent

The meeting was adjourned at 5:01 p.m.