

Commission on Law Enforcement Accountability, Community and Transparency

Meeting Minutes for July 2, 2020

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

Attorney General Gordon MacDonald called the meeting to order at 9:36 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.

Attorney General Gordon MacDonald - from the Department of Justice with Kim Schmidt, Kate Giaquinto, Annie Gagne and Nicole Clay

Robert Quinn, DOS Commissioner - Concord, NH

Ahni Malachi, Executive Director, NH Commission for Human Rights – personal residence

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

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

James McKim, President of NH NAACP - Goffstown, NH

Sawako Gardner, Justice of the NH Circuit Court – Wakefield, RI

Mark Morrison, New Hampshire Police Association – Londonderry PD

Charlie Dennis, NH Chief Association – Hanover, NH

Ken Norton, Executive Director of NAMI – personal residence

Joseph Lascaze, NH ACLU representative – Bedford, NH

Julian Jefferson, Criminal Defense Representative – Absent

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

Eddie Edwards, public member – Dover, NH

The General recognized Fallon Reed for her extraordinary effort in getting these meetings set up and operating. Fallon noted that committee members can mute and unmute themselves to speak, as well as raise their hand virtually to be called on. Members can also send a message to Fallon and she will field them accordingly. Public attendees can press *3 to get in the queue for speaking or if joined virtually, they can also raise their hand virtually.

The General noted that the next LEACT meeting would be from 9:30 a.m. to 12:00 p.m. on July 2nd, 2020. The June 25th, 2020 minutes were dispersed to the Commission, with edits suggested by Director Scippa. Ken Norton moved to accept amended minutes, Rogers Johnson seconded. A roll call vote was taken on the motion to approve the June 25, 2020 minutes and the votes were recorded as follows:

Attorney General Gordon MacDonald – Y

Commissioner Robert Quinn – Y
Director Ahni Malachi – Y
Director John Scippa – Y
Chairman Rogers Johnson – Y
President James McKim – Y
Justice Sawako Gardner – Abstain
Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Joseph Lascaze – N/A
Julian Jefferson – N/A
Eddie Edwards – Y
Ronelle Tshiela – Y

The General noted that we would first complete questions from the Commission to Chief Dennis on his presentation from the June 26th, 2020 meeting. After that, the Commission would allow testimony from the public in the following order:

Susan Wolfe Downs
Richard Van Wickler
Donna Brown
Martha Wyatt
Robin Davis
Renny Cushing
Michael Dane
Mike Skibbie
Janet Champlin
Veronica Dane
Matt Simon

If any members of the commission or public would like to present testimony that have not already submitted a request to speak, please email LEACT@doj.nh.gov ahead of time to be added to the agenda and provide the corresponding materials.

Chief Dennis – Questions on Presentation

Chief Dennis answered several questions about his presentation, which are listed in bullet points below:

- How is funding done around training and how it might be improved?
 - o Each agency has own budget, and determined by department
 - o There are some free trainings (including the majority of PST trainings)

- Thoughts on how this Commission may assist in figuring out how to achieve funding?
 - o Grants, federal funding, legislative budgets, what committees deem important and beneficial in the long run
- How unions fit in with policy and procedures?
 - o Unions play a role of helping PDs make better informed decisions and provide feedback
- How many law enforcement agencies in NH?
 - o Over 200
- How many apart of Chiefs Association?
 - o Around 180
- How many represented by unions?
 - o Unsure
- How many PD's accredited?
 - o 50 accredited nationally (CLEA), 5 in process
- Any community practice working towards accreditation to provide training?
 - o Agencies that are accredited have meetings throughout year and invite agencies looking to do so, group helps them achieve that
- Training available through CLEA to help agencies justify accreditation?
 - o Not sure there is official training, but CLEA would work with you to connect you to nearby agency to gain understanding of process and benefits
- Template provided by PSTC on use of force trainings or do departments create own training hours required?
 - o 4 in-service hours, specific topics being covered every three years
- NH Standards of Conduct, do we need one or is there one now?
 - o There is a law enforcement code of conduct, each agency sets own policies and procedures
 - o Could there be a state standard of conduct?
- Absence of accreditation, who is responsible to review policies and procedures of each department?
 - o Varies community to community and agency to agency
 - o Could have a specific person or persons on staff to review
 - o Selectman, town government
- Do insurance providers review policies and procedures and make recommendations?
 - o They can be a resource to help determine best practice
- Does CLEA make specific training recommendations on racial bias?
 - o There could be but not specifically aware
- Citizen oversight and review boards, is there training for those citizens so they have an understanding?
 - o Unsure
- Organizational culture, what type of training to enforce guardian model vs. warrior model of policing?
 - o Dir. Scippa has mentioned some of those and several exist

- What training do you provide to promote loyalty to community rather than specific supervisor, Chief and coworker?
 - o There are trainings that can help change mindset and change the culture
 - o Starts at the academy but first person new recruit works with is FTO (field training officer) – how does FTO interact
- How many oversight boards exist in NH?
 - o Unsure
- Can we find out how many exist for record?
 - o Yes
- Do you support general oversight to include training curriculum?
 - o Community decision to make that, each needs to work with their PD and city council to make that decision
- Do the NH Police Chiefs Association believe persons of color are disproportionately arrested and incarcerated in NH?
 - o Cannot comment to that, does not have enough info
- Do you believe persons of color are disproportionately arrested and incarcerated in NH?
 - o Has not seen the ACLU list, cannot comment to that
- Do police departments report as a whole the demographics of arrest and crime rates?
 - o Does not believe he has that information, however understands that communities want diversity in police departments and mirrored rosters
- How are agencies recruiting diverse members?
 - o Job fairs, LinkedIn, reach out specifically to minorities, etc.
- When it comes to SWAT, how are NH teams trained?
 - o Several agencies provide in house trainings, attend others and bring other people in
- Aware of any implicit bias training over PSTC training?
 - o Not aware, but great question to ask.
- How many PDs have prosecutors and how many are people of color?
 - o Not sure of exact number
- What training do SWAT members receive regarding no-knock warrants?
 - o Unsure
- Are PDs trained in the use of tear gas and rubber bullets?
 - o Unsure, Hanover has not
- Who would be able to answer questions about no-knock warrants?
 - o Specific SWAT teams
- What data do PDs collect regarding stops and seizures?
 - o Each PD is different, depends on their system
- Would you support making race a required collected demographic at stops?
 - o Great conversation to have
- State of NH recruitment: NHSP, worked to recruit minorities and women in law enforcement

The General noted that the commission may explore a survey to police departments to address some of the issues that have come up about training and items specific to police departments.

Beginning of Public Testimony

Susan Wolfe Downs

Thanks everyone for their participation in this committee. Has been applying to offer training to officers about the deaf committee, but not in most recent years. Concerned that officers did not care about the deaf community, but it's good to hear that the commission is receptive to working more with community. Need to encourage police departments to be more open to communication with deaf community. Did you know that one officer is a CODA (child of deaf adults) and another is an interpreter? She encourages departments to reach out to deaf community and DHHS to use resources. Was stopped by an officer that believed her and her husband were swerving in their car when they were signing to each other, explains she was terrified because she could not communicate with the officer who did not have any method to do so and is aware they should based on her training.

- Director Scippa requests name of officers who could help instruct programs on deaf and hard of hearing trainings

Donna Brown

Speaking on behalf of NH Association of Defense Lawyers. Chief Dennis mentioned that he was unaware that persons of color are disproportionately arrested and that's part of the issue. About 3 months ago, received a call from a client who was pulled over and in hysterics. Brown spoke with the officer and explained the reasoning behind the client's irritability. Defense lawyers have been trying to bring this culture issue to light. (See public testimony on LEACT website) NH State Police Mobile Enforcement Unit – proactive police unit to prevent crime before it happens. Stops associated with war on drugs have failed, officers are disproportionately stopping minorities. Officers are abusing stops to ask questions irrelevant to reason for stop. Recommends yearly training on implicit bias training, oppression of minorities, and changing mindset on this issue.

- James McKim wants feedback on qualified immunity. What approach should commission take to address middle ground?
 - o Qualified immunity makes it difficult to sue police for misconduct. Unless you can find case with nearly identical misconduct, makes it nearly impossible to hold police accountable. Needs reform, people are asking for middle ground. Federal level has some statutes and police reform.
- Joseph Lescaze – how does PD use motor vehicle stops to enforce racial bias?
 - o Troopers tasked with pretextual stops
- Joseph Lescaze – why are pretextual stops detrimental?

- Racial bias could lead reasoning for stops, pretextual stops are equivalent to stop and frisk
- Joseph Lescaze – any recommendations to commission?
 - Dash cams and body cams
- Commissioner Quinn – NHSP does not train pretextual stops, have been having conversations with MET team to strike balance between supply and demand. Open to increased training and support, training on case law, implicit bias, training at AG and county attorney level. Camera project, looking to move in direction or reinstalling cameras.
 - Attorney Brown will send material to Quinn for training
- Ahni Malachi – qualified immunity, how does the AG’s Office define this?
 - The General recommends putting a briefing of state and federal law together to answer this and make available on website
- Ken Norton – there is no state wide database for arrests based on demographics
 - That is her understanding, recommends on all stops, not just arrests

Renny Cushing – technical difficulties

Michael Dane

Resident of Stratham, NH. Strongly echo comments made by Attorney Brown. Understands commission was formed in the wake of George Floyd and response to police racial bias. We live in a state where blacks are 5x more likely to be incarcerated than whites. Encourages anyone to follow Instagram accounts @blackatexeter and @blackatunh. Not enough training provided and disappointed at lack of addressing issue by departments. Expects exposing, measuring and disciplining of racial bias. Would like to ask whether transfers from departments are reviewed for bias, complaints, etc? Would like to understand whether NH considered dispatching unarmed officers instead of armed to specific complaints. Not a time to congratulate ourselves, time to ask hard questions.

Mike Skibbie

Policy Director for Disability Rights Center. School Resource Officers, concerned that students are recommended to justice system for minor, non-violent contacts more often. This is the criminalization of children and their behavior. When a child is involved in a disciplinary matter, labelling as a bad person, contacts can be detrimental. Can cause academic failure, alienation, high drop-out rates, etc. Mental illness responses need improvement. Crisis intervention training should be ramped up, no clear reduction in arrests. Problem is reliance on law enforcement function as response, need to avoid that.

- Ahni Malachi – if calls come in to law enforcement, how would you know it’s a mental health issue, who do you send to respond?
 - Both mental health counselor and law enforcement

- Ahni Malachi – money needs to be secured to have mobile crisis units and needs to inform public
 - o Yes
- Ahni Malachi – would the response happen simultaneously, or is this communication happening to determine how to move forward in order to categorize?
 - o Can happen in variety of ways, not sure if dispatch would handle. Happy to make inquiries. Need to better inform community of resources to call other than 911
- Ahni Malachi – situations shared, are they NH based?
 - o No, research comes from national based
- Ahni Malachi – rural areas or populated with minorities?
 - o In an urban area, identified very similar schools
- Ahni Malachi – estimate request by administration for SRO, is that because administration cannot handle or does not want to handle?
 - o Not aware of research into motivation of reasoning
- Joseph Lescaze – given exclusionary discipline, are you aware of any minority bias
 - o Yes
- Chief Dennis – people call 911 and police are required to respond. Many times respond to same individual multiple times, would benefit from mental health crisis team
- James McKim – could 911 dispatchers be trained to triage mental health emergencies, or set policies that both mental health and police respond?
- Commissioner Quinn – once officers determine what emergency is, what is the best resource to dispatch (CIT, etc.)? What are the best resources to send (i.e. fire, police, mental crisis, etc.)?
- Ken Norton – Federal communications going to vote on new line (988) to call for mental health service to help expand public awareness of issues

The General thanked the commission and public members for their time and stated that the next meeting would include the remaining members of the public scheduled to speak. The tentative meeting for next week 11:30 a.m. on Thursday, July 9th, 2020 for 2.5 hours. Public notice will go out once finalized. Ken Norton has raised the suggestion that the commission create a regular schedule, the General has asked he take on that task and is open to suggestions. Reminder that any public members wishing to speak should email LEACT@doj.nh.gov and all testimony is posted on the website at governor.nh.gov/accountability. The suggestion was made to send a survey of available times to the commission, which the AGO will take up and send out. The General requested a motion to adjourn. So moved by Joseph Lescaze and seconded by Chief Edwards. A roll call vote was taken on the motion to adjourn and the votes were recorded as follows:

Attorney General Gordon MacDonald – Y
 Commissioner Robert Quinn – Y
 Director Ahni Malachi – Y
 Director John Scippa – Y
 Chairman Rogers Johnson – Y

President James McKim – Y
Justice Sawako Gardner – Y
Mark Morrison – Y
Chief Charlie Dennis – Y
Director Ken Norton – Y
Joseph Lascaze – Y
Julian Jefferson – N/A
Eddie Edwards – Y
Ronelle Tshiela – Y

The meeting was adjourned at 12:05 p.m.

DRAFT