

August 13, 2020

To New Hampshire Attorney General Gordon MacDonald,

Please accept this letter as a follow-up to my July 14, 2020 testimony to the New Hampshire Governor's Commission on Law Enforcement Accountability, Community and Transparency. Among the twelve recommendations that I outlined to the Commission during my testimony, one was the elimination of the Laurie List, now referred to as the Exculpatory Evidence Schedule (EES).

The purpose of this letter is to elaborate on this particular point and outline a plan to accomplish an unbiased and objective vetting of the EES, ultimately resulting in its permanent elimination. This would be accomplished by the following proposed steps:

1. The New Hampshire Attorney General shall meet with all of the New Hampshire County Attorneys, and provide each County Attorney the list of EES police officers from their respective counties.
2. The NH Attorney General shall direct the County Attorneys to conduct a thorough background investigation of the incident or incidents that resulted in each officer being placed on the EES. Investigators employed by the respective County Attorneys, under their direction and review, shall conduct these investigations. In the event that a County Attorney requires additional investigators, all of the County Attorneys shall be required to share their resources. If additional investigators are still required, the NH Attorney General's Office investigators shall be made available.
3. The Attorney General's Office will conduct a training for all County Attorneys and their investigators to ensure that continuity is achieved in their investigative process.
4. The NH Attorney General shall issue a directive to all of the NH Police Chiefs and the NH Police Standards and Training Council (NH PSTC) that personnel records, witnesses and all other resources shall be made available to the County Attorney and their investigators, specific to the EES officer investigations.
5. Upon completion of the investigations, each County Attorney shall provide a synopsis and recommendation for each officer on their EES list to the NH Attorney General. The recommendation will provide enough facts to confirm that the officer was either justifiably placed on the EES, and if not, a recommendation of removal from the EES, and the justification for same.
6. Each County Attorney shall be responsible for notifying the respective Police Chiefs within their jurisdiction of the final status of their EES police officers.
7. The NH Attorney General or by designation, each County Attorney, will provide their finalized EES, along with their investigative findings, to the NH PSTC for the purpose of de-certifying all officers who remain on the EES.

The result of this process would be the elimination of the EES altogether.

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Once the EES is eliminated, when a police officers alleged misconduct rises to the level that they are no longer credible or otherwise unable to perform their duties, the NH Attorney General shall put in place the following proposed procedure:

1. The Police Chief shall notify their respective County Attorney of the officers alleged misconduct, and provide the County Attorney all internal investigation materials for review and further investigation if needed. If the officer in question is the Police Chief, it shall be the duty of the next highest ranking officer of that department to make the notification.
2. The County Attorney shall determine whether the officers conduct rises to the level that they are no longer credible. If the County Attorney determines that further investigation is required, it shall be conducted by the County Attorney's investigator or an investigator from the NH Attorney General's Office.
3. If the County Attorney concludes that the officers misconduct rises to the level that they are no longer credible or otherwise unable to perform their duties, the County Attorney shall direct the respective Police Chief to notify the NH PSTC for the purpose of de-certifying the officer.

The above process provides for a heightened level of transparency, reduces the subjectivity currently in place, and allows for oversight by the Attorney General's representatives in each respective county.

In conclusion, the EES is an antiquated obstacle to true accountability, community and transparency in New Hampshire law enforcement. Thank you for your consideration and attention to this important issue.

Respectfully,

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Retired Chief of Police
Bartlett, NH