



New Hampshire Commission on Law Enforcement Accountability, Community, and Transparency

July 31, 2020

His Excellency, Governor Christopher T. Sununu
State House
Concord, New Hampshire 03301

The Honorable Stephen J. Shurtleff
Speaker of the House
Office of the Speaker
State House, Room 311
107 North Main Street
Concord, NH 03301

The Honorable Donna M. Soucy
President of the Senate
Senate President's Office
State House, Room 302
107 North Main Street
Concord, NH 03301

Dear Governor Sununu, Speaker Shurtleff and President Soucy:

Attached please find an interim report regarding training curriculum, procedures and policies including recommendations from the Commission regarding reforms and improvements in this area.

Respectfully submitted,

Members of the New Hampshire Commission on
Law Enforcement Accountability, Community, and
Transparency



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I. Introduction

II. Training Curriculum, Procedures and Policies

Executive Order 2020-11 directs that the Commission shall examine: “[t]raining curriculum, procedures and policies developed by State Police, local police departments and the Police Standards and Training Council, and potential options for improving the same to better address certain areas which may include, but are not limited to, (i) de-escalation, (ii) use of deadly and non-deadly force, and (iii) diversity training.” Executive Order 2020-11, at ¶ 3 (a).

This section of the report describes the current state of training, curriculum and policies with respect to the Police Standards and Training Council, the New Hampshire State Police and local police departments; summarizes public testimony and recommendations on these subjects; discusses recent relevant legislative changes; and sets forth the Commission’s recommendations with respect to training curriculum, procedures and policies.

a. Current State of Training, Curriculum and Policies

i. Police Standards and Training Council

The legislature has assigned the responsibility for the education and training of all law enforcement officers, state corrections officers and state probation-parole officers to the Police Standards and Training Council. RSA 106-L:1 & 6. By law, no person may serve as a law enforcement officer in New Hampshire “unless such person has satisfactorily completed a preparatory program of police, corrections, or probation-parole training appropriate to such person’s position at a school approved by the council.” RSA 106-L:6, I. The Council oversees such a school, known informally as the police academy.¹

The Council is an executive branch agency, RSA 106-L:4, and it is comprised of fourteen members, RSA 106-L:3. Four Council members (the chancellor of the community college system, the director of the division of state police, the attorney general and the commissioner of the department of corrections) serve *ex officio*; the governor appoints the other members to two-year terms. RSA 106-L:3, I & II. The Council has extensive enumerated powers including with respect to rulemaking, standard setting and the conduct of administrative hearings. RSA 106-

¹ The legislature has also assigned to the Police Standards and Training Council the responsibility for the suspension or revocation of law enforcement officer certification “in the case of egregious misconduct or failure to comply with council standards.” RSA 106-L:5, V. This responsibility is discussed in detail in § III a, *infra*.



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L:5. The Council is 100 percent funded by the General Fund. Its total budget for the State Fiscal Year 2021 is \$3,472,749.

The Council also has authority to nominate and appoint a director of police standards and training. RSA 106-L:5, XVIII. On March 16, 2020, the Council appointed John Scippa as the director. Director Scippa serves as a member of this Commission.

The Police Academy is located at 17 Institute Drive, Concord. It is formally known as the Arthur D. Kehas Law Enforcement Training Facility and Campus. It contains lecture halls, classrooms, and a tactical training center. There is adjacent dormitory space.

The Council provides three academies: a full-time officer academy, a part-time officer academy and a corrections academy. It also provides in-service training. At present, the full-time academy lasts sixteen weeks. There are three full-time officer academies per year.

Students, known as recruits, are hired and screened by their employing agency. Criteria to qualify for employment as a law enforcement or corrections officer are set forth in the Council's administrative rules. *See* N.H. Admin. R. Pol 300. Those criteria include: a high school diploma or equivalent, fingerprints and a criminal record check, proof of United States citizenship, a physical examination, a background investigation, drug testing and psychological screening. *See id.* Employing agencies may have additional criteria.

The academy is paramilitary in nature and the recruits live on-site, Monday through Friday, for the duration of the sixteen-week academy. The current curriculum consists of 684 hours of instruction on various topics. A copy of the current curriculum and hours appears in the Appendix. There are both classroom and hands-on components to the curriculum. Class exams are conducted during the course of an academy.

Director Scippa testified before the Commission and provided written materials that are part of the record. His testimony focused on academy training with respect to three specific areas: diversity, de-escalation and use of force. The current block of instruction regarding diversity lasts two hours. It is classroom based and focuses on recognizing differences among cultures. It advocates a "Stop, Look and Listen" approach to dealing with individuals from different cultures. Very little time is devoted to defining and recognizing bias, including implicit bias, or overcoming and controlling the bias.

Recruits attend a six-hour block of instruction entitled "Communication Techniques" which deals generally with strategies relating to communication and de-escalation. However, Director Scippa testified that communication and de-escalation are themes throughout the academy, including during use-of-force scenarios. Recruits also receive sixteen hours of instruction on "Mental Illness Dynamics," which consists of both lecture and practical exercises.

Use-of-force instruction includes classroom lectures and practical applications in the use of firearms, physical force, defensive tactics, oleoresin capicum spray (otherwise known as



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“pepper spray”), and use of a baton. The classroom lectures include discussion of the mechanics of each area as well as the law governing use of deadly and non-deadly force.² Practical and physical skills comprise 93.25 hours. Most recruits do not have experience in the use-of-force and repetitious practice is required to ensure competent and accurate use-of-force under stressful circumstances. Toward the end of the academy, recruits participate in scenario-based training designed to replicate stressful and realistic situations recruits will likely face on the job. The academy uses a VirTra use-of-force simulator. The simulator can replicate up to 125 different scenarios which can be created by academy staff. After a review, the simulated scenarios incorporate a fair cross-section of participants from various communities.

A chokehold is not a technique that is taught at the academy, however, there is no training that expressly prohibits it.³ There is no training on the duty to intervene when another officer engages in the use of inappropriate force or other misconduct.

The part-time officer academy is 200 hours. All law enforcement officers are required to complete eight hours of in-service or refresher training annually. N.H. Admin. R. Pol 403.01. That is exclusive of firearms training, which requires a separate annual certification. N.H. Admin. R. 404.04.

ii. New Hampshire State Police

The legislature established the New Hampshire State Police in 1937. It is a division within the Department of Safety. RSA 106-B:2. It is comprised of approximately 350 sworn officers and is the largest law enforcement agency in New Hampshire. In addition to field operations spread across seven troops, the State Police also engage in numerous highly specialized functions, such as the Major Crime Unit and the state’s only Forensic Science Laboratory. The director of the division of state police holds the rank of colonel. RSA 106-B:4. Colonel Nathan Noyes was sworn into office on April 8, 2020. Colonel Noyes testified before the Commission and provided written materials that are part of the record.

The legislature has assigned to the colonel, with the approval of the commissioner of safety, responsibility for the training of division members. RSA 106-B:6. The colonel is also ultimately responsible for policies and written directives governing the division’s work. *See id.*

New Hampshire State Troopers attend the police academy. State Police receive in-service training that exceeds the eight-hour annual requirement. Colonel Noyes testified that, in recent years, State Police training has focused on issues including unconscious bias, fair and

² RSA 627:5, captioned “Physical Force in Law Enforcement” sets forth the legal standards for the use of both non-deadly force, RSA 627:5, I, and deadly force, RSA 627:5, II, by law enforcement officers.

³ The use of chokeholds by law enforcement officers is now prohibited by New Hampshire law. *See* § II.a.iv., *infra*.



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impartial policing and mental and physical wellness and resilience. Four times per year, troopers attend use-of-force training which encompasses review of relevant statutes, case law, recent events, internal policies as well as scenario-based training. Other trainings include emergency vehicle operators course, search and seizure training, response to active shooters, as well as policy review for the division's Fair and Impartial Policing, discussed below. In addition, when a new trooper is hired, he or she is required to spend at least one day at the New Hampshire Hospital, an experience intended to educate new troopers about appropriate responses with individuals in a mental health crisis.

Chokeholds are not an approved technique and it is not taught by State Police in its use-of-force instructions.⁴

With respect to policies and procedures relating to race and bias, in February 2019, State Police issued General Order 100.04, captioned "Fair and Impartial Policing." A copy of the policy appears in the Appendix. Its purpose is to: "prevent and prohibit the practice of biased policing and other discriminatory practices in any law-enforcement related activity involving a member of the Division." The policy states that: "[i]n the absence of any specific report or suspicious circumstances, the actual or perceived race, ethnic background, color, age, gender, sexual orientation, religion, economic status, cultural group or any other identifiable group of any person will not be the basis for the detention, interdiction or other disparate treatment of any individual by any member of the Division of State Police." This policy was developed with the input of community leaders and the ACLU-NH and has been held up as a standard for other New Hampshire law enforcement agencies.

iii. Local Police Departments

There are approximately 210 municipal law enforcement agencies in New Hampshire. They range in size from one law enforcement officer to over two hundred. The chief of police generally has control and direction of police within a jurisdiction. *See* RSA 48:10 (cities) and RSA 105:2-a (towns). Chiefs are generally appointed by a municipality's executive (e.g., selectmen, RSA 105:1, mayor or city manager).⁵ Charlie Dennis is the Chief of Police in Hanover and currently serves as the President of the New Hampshire Association of Chiefs of Police. He is a member of the Commission. Chief Dennis testified before the Commission and provided written materials that are part of the record.

⁴ The use of chokeholds by law enforcement officers is now prohibited by New Hampshire law. *See* § II.a.iv., *infra*.

⁵ Police commissions exist in at least the following cities: Manchester, Nashua, Portsmouth, Laconia and Berlin. The commissions are authorized by statute, *see* N.H. Laws of 1913, ch. 148, and city charters. They are comprised of three to five citizens. The roles and responsibilities vary among police commissions but, generally, they can be an important source of community input for the police department's leadership.



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Each police department is responsible for writing, maintaining and enforcing its own policies and procedures, including with respect to training. There are no model statewide policies or standards. The Police Standards and Training Council has no role in developing or approving local policies and procedures. There is no statute or rule that governs local policies or procedures.

Because of the enormous variation in department sizes and resources, there is variation in policies, procedures and training. For example, the Manchester Police Department – the largest municipal law enforcement agency in New Hampshire – requires newly hired officers to undergo eight weeks of training, both before and after the academy.

The Commission on Accreditation for Law Enforcement Agencies (CALEA) was founded in 1979 as a joint effort of the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriffs Association and Police Executive Research Forum. Its purpose was to create policies and procedures for law enforcement based on best practices.

CALEA is expressly committed to procedural justice, ethical policing, community trust and engagement, transparency and service delivery, appropriate organizational culture, fairness in systems and processes, and consistency in what the public should expect from a law enforcement agency. Basic accreditation requires compliance with 181 standards. There are substantial costs to becoming accredited and to maintaining CALEA accreditation. At present, there are fifteen law enforcement agencies in New Hampshire which have CALEA accreditation.⁶

iv. Recent Legislative Changes

Since the creation of the Commission on June 16, 2020, the legislature has passed and the governor has approved statutory changes that implicate matters within the Commission's charge. On July 16, 2020, Governor Sununu signed HB 1645 into law. Section 25 of that bill amends RSA 627:5 (addressing the use of physical force in law enforcement) by adding a new section to prohibit the use of chokeholds by any law enforcement officer. This provision, which took effect on July 16, 2020, defines "chokehold" as "the application of any pressure to the throat, windpipe, or neck, which prevents or reduces intake of air, or oxygen to the brain."

⁶ The CALEA accredited agencies are: Claremont Police Department, Dover Police Department, Durham Police Department, Goffstown Police Department, Hollis Police Department, Hudson Police Department, Keene Police Department, Laconia Police Department, Manchester Police Department, Nashua Police Department, Pelham Police Department and Portsmouth Police Department. In addition, the Strafford County Sheriff's Office and the University of New Hampshire Police Department are CALEA accredited. Four other local law enforcement agencies are currently pursuing CALEA accreditation.



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Another section of HB 1645 requires that it “shall be the duty of any law enforcement officer who observes misconduct by another law enforcement officer to notify the chief law enforcement officer in his or her department in writing immediately or as soon as practicable after observing such misconduct.” Within seven days of such a notification, the chief must report the misconduct to the Police Standards and Training Council. The new statute defines misconduct as: “assault, sexual assault, bribery, theft, tampering with evidence, tampering with a witness, use of a chokehold, or excessive and illegal use of force as defined by the New Hampshire criminal code.”

b. Summary of Public Testimony Received by the Commission

In addition to the witnesses discussed above, the Commission heard testimony from eighteen members of the public. Other individuals submitted written testimony. Recordings of all of the Commission’s hearings are available on its website: governor.nh.gov/accountability. In addition, members of the public submitted extensive written materials. Those are also available on the Commission’s website.

i. Specific Recommendations Submitted by the Public

Members of the public made the following specific recommendations for improvements and reforms with respect to training curriculum, procedures and policies:

1. Extend the length of the police academy beyond its current 16 weeks.
2. Improve and augment police academy training on diversity.
3. Expand in-service training requirements, standardize subject matter and mandate topics such as implicit and unconscious bias.
4. Expand police academy training to include history of police relations with minorities, prejudice and misconduct toward persons of color.
5. Improve and augment police academy training on communicating with hearing-impaired individuals.
6. Expand police academy training to include the consideration of race by law enforcement officers when deciding whether there is reasonable cause to detain someone or whether they consent to a search.
7. Improve and augment police academy training on de-escalation techniques.
8. Improve and augment police academy training on mental health/overall wellness of law enforcement officers (including ongoing psychological screenings).
9. Improve and augment police academy training on mental health and substance abuse issues.



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10. Improve and augment police academy training on police ethics, including the duty to intervene.
11. Abolish the part-time police academy.
12. Improve and augment police academy training for School Resource Officers.
13. Improve and augment police academy training for child abuse and sex crimes investigations.
14. Implement statewide mobile-crisis response teams to decrease police response to mental health crisis.
15. Improve and augment police academy training for crisis intervention training.
16. Increasing diversity of police academy teaching staff.
17. Implement statewide accreditation requirements for all police departments.
18. Mandate collection and publication of demographic data pertaining to all police contacts with members of the public.
19. Mandate implicit bias screening of new officers.
20. Improve efforts to recruit diverse candidates for law enforcement.
21. Require prosecutors to inform agencies when evidence is suppressed or a case is dismissed/abandoned in court.

c. Commission Recommendations

The Commission makes the following recommendations for reforms and improvements with respect to training curriculum, procedures and policies:

I. Required Training to Maintain Law Enforcement Officer Certification:

1. As soon as practicable, NH PSTC, with input from all relevant law enforcement agencies, should pursue all actions necessary, including emergency rulemaking pursuant to RSA 541-A, to amend existing administrative rules to provide as follows:
 - a. Increase the mandatory number of hours of annual in-service training for law enforcement officers in NH, on an incremental basis over the next three years. By January 1, 2024, the total mandatory hours of annual in-service training should be a minimum of twenty-four (24) hours.
 - b. Mandate that annual in-service training as approved by NH PSTC include, at a minimum, two (2) hours on each of the following topics:
 - i. Implicit bias and cultural responsiveness;



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- ii. Ethics training; and
 - iii. De-escalation training.
2. Beginning January 1, 2021, strongly encourage all law enforcement agencies to require their officers to participate and receive, at a minimum two (2) hours annually, of training in the following areas:
- a. Implicit bias and cultural responsiveness;
 - b. Ethics; and
 - c. De-escalation.

II. NH Police Standards and Training Council General Recommendations

3. NH PSTC should conduct a Job Task Analysis for entry-level law enforcement 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.
4. NH PSTC 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.
5. NH PSTC, in collaboration with other law enforcement agencies, using nationally vetted best practices as set forth by International Association of Chiefs of Police (IACP), Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), Police Executive Research Forum (PERF), and National Organization of Black Law Enforcement (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
 - Duty to Intervene
 - Code of Conduct
 - Duty to Report Misconduct
 - Prohibition of Chokeholds
 - Procedures to Guard Against Positional Asphyxia
6. NH PSTC should increase the number of hours of scenario-based training in both academy and in-service settings.



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7. NH PSTC should 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. Training on the topic of Implicit Bias and Diversity to be developed with one or more community partner(s).
8. NH PSTC 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.
9. NH PSTC 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.
10. NH PSTC should improve and augment police academy training on police ethics by re-instituting the Ethics block of instruction.
11. NH PSTC 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.
12. NH PSTC 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 update materials.
13. Recognizing that certain NH police agencies need to rely on part time law enforcement officers, NH PSTC should re-evaluate the Part Time Police Officer certification process upon receipt of the Job Task Analysis and consider extending the length of such training and give certain consideration to what law enforcement functions part time officers be allowed to perform.
14. NH PSTC should amend our administrative rule POL 301.05 Background Investigations to mandate that background investigations specifically vet police recruit candidates 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.



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III. Other Recommendation

15. All NH law enforcement agencies should be encouraged to pursue CALEA accreditation. In the absence of CALEA accreditation, agencies should continually review and maintain policies consistent with nationally accepted best practices.



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III. Reporting and Investigation of Police Misconduct

- a. Current State of Laws, Policies and Procedures Governing
Reporting and Investigation of Police Misconduct**
- b. Summary of Public Testimony Received by the Commission**
 - i. Specific Recommendations Submitted by the Public**
- c. Commission Recommendations**



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IV. Current State of Relations Between Law Enforcement and the Communities They Serve

a. Current State of Affairs

b. Summary of Public Testimony

i. Specific Recommendations Submitted by the Public

c. Commission Recommendations

V. Other Subject Matters Considered by the Commission

VI. Conclusion