

Commission Meeting Number 324

State of New Jersey Department of Law and Public Safety
Division of Criminal Justice

POLICE TRAINING COMMISSION

Minutes of Commission Meeting

August 1, 2018

Location: Richard J. Hughes Justice Complex, 4th Floor Conference Center

Commission Members Present

<u>Organization</u>	<u>Attendee(s)/Representative(s)</u>
Office of the Attorney General, State of New Jersey	John F. Cunningham
New Jersey State Policemen's Benevolent Association	Michael Pellegrino
New Jersey State Association of Chiefs of Police	Richard Buzby (Alternate)
New Jersey State Lodge, Fraternal Order of Police	James Sharrock
County Prosecutors' Association of New Jersey	Fredric Knapp
Sheriffs' Association of New Jersey	Absent
Police Academy Director's Association	Daniel Colucci (Rocco Miscia)
Commissioner-Department of Education	Carl Carabelli
Commissioner-Department of Corrections	Aaron Erven
Federal Bureau of Investigation	Jason DeMartino
New Jersey Juvenile Detention Association	Absent
New Jersey State Parole Board	Samuel Plumeri
National Organization of Black Law Enforcement Executives	Absent

Division of Criminal Justice Staff Present

Deputy Attorney General Analisa Holmes, PTC Counsel

Deputy Attorney General Robert Czepiel, Deputy Bureau Chief

Deputy Attorney General Jeffrey Barile, Deputy Chief, Prosecution Supervision and Training Bureau

Deputy Attorney General Sarah Luciano, Prosecution Supervision and Training Bureau

Deputy Attorney General Emily Anderson, Prosecution Supervision and Training Bureau

Deputy Attorney General Joseph F. Walsh, Prosecution Supervision and Training Bureau

Academy Coordinator Pat Jones, Police Training Commission

Academy Coordinator Tykeria T. Lockhart, Police Training Commission

Field Representative Dion Feltri, Police Training Commission

Field Representative John Janowiak, Police Training Commission

**Police Training Commission
Meeting Minutes for August 2, 2018**

Administrator John F. Cunningham called the 324th meeting of the Commission to order at 12:43 pm.

Administrator Cunningham led the Commissioners in the flag salute. Commissioner Cunningham asked for a moment of silence in remembrance of the Law Enforcement and Military personnel who have lost their lives in the line of duty.

Academy Coordinator Tykeria T. Lockhart announced that “notice of the Commission meeting has been publicized in accordance with the provisions of the Open Public Meetings Law by notification to the Secretary of State and five newspapers. The notifications included a copy of the meeting agenda.”

Administrator Cunningham asked the Commissioners to consider the minutes of the June 6, 2018 Commission meeting. Commissioner Daniel Colucci made a motion to amend the minutes to reflect his no vote for Agenda Item 6A. Commissioner Rocco Miscia made a motion to amend the minutes for the Emergent Matter to state that the attorneys representing Essex County College requested that he be recused from the open public meeting. Administrator Cunningham noted that both amendments will be made to the June 6, 2018 meeting. Commissioner James Sharrock made a motion to accept the motion as written and amended. Commissioner Daniel Colucci seconded the motion. The Commissioners voted to approve the motion.

Administrator Cunningham asked Chairperson Carabelli to report on the business of the Appeals and Legislation Committee.

1. Commissioner Carabelli reported the following appeals were received since the June 6, 2018 PTC Meeting:

Nicklas Shimonovich v. Ocean County Police Academy
Argjent Dervishi v. Passaic County Police Academy
James Dillon v. Passaic County Police Academy
Cory McLearn v. Monmouth County Police Academy

2. Commissioner Carabelli reported that no appeals were referred to the Office of Administrative Law.

3. Commissioner Carabelli reported the following Initial Decisions were received from the Office of Administrative Law since the June 6, 2018 PTC Meeting:

Melissa Johnson v. Morris County Public Safety Training Academy

In the Initial Decision following a hearing, the OAL judge upheld the dismissal of the trainee from the Academy for physical training failure (failure to complete/fully participate in 80% of the required physical training sessions). Furthermore, the judge affirmed the employing agency's decision to terminate employment of the trainee; however, because injuries prevented the trainee from being able to participate fully in academy training, the ALJ modified the termination to reflect a resignation in good standing.

Carmen Lloay v. New Jersey State Police Academy

In this Initial Decision, the OAL judge issued a summary decision upholding the dismissal of the trainee from the Academy for physical training failure (failure to complete 80% of the required physical training sessions). The OAL judge also rejected the trainee's argument that the employing agency's "input" was essential to the decision of the case (on whether it would "recycle" the petitioner). Counsel for the trainee has filed exceptions to the Initial Decision.

Megan Grover v. Morris County Public Safety Training Academy

The Initial Decision memorializes a Settlement Agreement between the trainee and the Academy. In the Settlement Agreement, the trainee withdraws her appeal, and the Academy agrees to amend the trainee's records from a dismissal for failure to meet the PT standard to a voluntary resignation from the course.

Lyonne Zapata v. New Jersey State Police Academy

The Initial Decision memorializes a Settlement Agreement between the trainee and the Academy. In the Settlement Agreement, the trainee withdraws her appeal, agrees that she will not continue to seek employment as a police officer with the Newark Police Department and waives any and all claims against the Academy. The trainee maintains the right to seek employment with Newark PD in the future from a new Civil Service list or as a "lateral transfer." The trainee may seek employment with other police departments. The Academy agrees to amend the trainee's dismissal for failure to meet the PT standard to a voluntary resignation.

Stephanie Vargas v. New Jersey State Police Academy

The Initial Decision memorializes a Stipulation of Dismissal executed by the trainee and the Academy. The Stipulation of Dismissal states that the appeal is dismissed with prejudice.

Vincent Ortmann v. Monmouth County Police Academy

The Initial Decision memorializes a Settlement Agreement between the trainee and the Academy. In the Settlement Agreement, the trainee withdraws his appeal and agrees that

he will be deemed to have resigned in good standing from the Union County Corrections Department. The trainee waives any and all claims against the Academy and his employer. The Academy agrees to amend the trainee's dismissal for failure to meet the PT standard to a voluntary resignation. The settlement shall not act as a bar to the trainee seeking future law enforcement employment, nor attending the Monmouth County Police Academy

Gilbert Segarra v. Essex County College Public Safety Academy

The Initial Decision memorializes a Stipulation of Settlement and Last Chance Agreement between the trainee, the Academy and the employer. In the settlement, the trainee agrees to abandon his appeal and to waive any and all claims against the Academy and his employer. The employer agrees to "recycle" the trainee into the next available offering of the Basic Course for County Corrections Officers (BCCCO) at a different Academy.

Yasilis Ortiz v. New Jersey State Police Academy

The Initial Decision memorializes a Settlement Agreement between the trainee and the Academy. In the Settlement Agreement, the trainee withdraws her appeal, agrees that she will not continue to seek employment as a police officer with the Newark Police Department and waives any and all claims against the Academy. The trainee maintains the right to seek employment with Newark PD in the future from a new Civil Service list or as a "lateral transfer." The trainee may seek employment with other police departments. The Academy agrees to amend the trainee's dismissal for failure to meet the PT standard to a voluntary resignation in good standing.

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to affirm and adopt all eight Initial Decisions.

4. Commissioner Carabelli reported the following appeals were withdrawn since the June 6, 2018 PTC Meeting:

Marqweesha Guthrie v. Passaic County Police Academy

Nicklas Shimonovich v. Ocean County Police Academy

Thomas Lawrence v. Passaic County Police Academy

Katherine Abreu v. New Jersey State Police Academy

5. Consideration of **Extensions of Training Time** for County Corrections Officers and Juvenile Detention Officers.

- 4A Consideration of a Request for an Extension of Training Time for Four County Corrections Officers (Burlington County Department of Corrections)

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to approve all four extensions.

- 4B Consideration of a Request for an Extension of Training Time for Eight Juvenile Detention Officers (Essex County Juvenile Detention Center)

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to approve all eight extensions noting that this will be the final extension approval given for Addison, Allen, Brown, Gunter, Love, Marrow and Spates.

- 4C Consideration of a Request for an Extension of Training Time for Four Juvenile Detention Officers (Union County Juvenile Detention Center)

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to approve all four extensions noting that this will be the final extension approval for Brown, Jones and Stern.

- 4D Consideration of a Request for an Extension of Training Time for Youth Worker, Collins A. Days (NJ Juvenile Justice Commission)

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to approve the extension noting this will be the final extension approval for this officer.

The Commissioners voted to approve the motion.

Commissioner Carabelli concluded the Appeals and Legislation Committee Report

Administrator Cunningham asked Chairman James Sharrock to report on the business of the Standards Committee.

1. Commissioner Sharrock indicated that **Agenda Item 6A** was a consideration of a Request from Director Thomas DePaul, Cape May County Police Academy to utilize Montego Bay Resort Indoor Pool as a satellite facility.

Commissioner Sharrock noted that PTC Field Representative, Dion Feltri conducted an inspection of the proposed satellite facility on June 12, 2018 and found the building in compliance with the standards established by the Commission. Field Representative Feltri

recommended approval of the Montego Bay Resort Satellite Facility. Commissioner Sharrock on behalf of the Standards Committee moved and seconded a motion to approve the use of the satellite facility. The Commission approved the motion.

2. Commissioner Sharrock indicated that **Agenda Item 6B** was a Consideration of a Request from Chief of Detectives, Mitchell G. McGuire, Essex County Prosecutor's Office to appeal the Waiver Denial for Syed M. Naqvi.

On June 22, 2018 Chief McGuire submitted a Waiver of Training request from SLEO II to BCI on behalf of Syed M. Naqvi. Upon review of the waiver request it was determined that Syed M. Naqvi did not meet the criteria as set forth in N.J.A.C. 13:1-8.4(c).

Syed M. Naqvi attended and graduated from the Essex County College Police Academy on January 31, 2006 with a certification in Special Law Enforcement Officer II. Syed M. Naqvi has served in the role of SLEO II/Deputy Sheriff with the Essex County Sheriff's Department since his graduation from the academy. N.J.A.C. 13:1-8.4(c) allows for a waiver of training within three years of completion of the Basic Course for Special Law Enforcement Officer II, officer Naqvi's eligibility for a Waiver of Training expired on January 31, 2009.

Acting Chief of Detective Mitchell McGuire and Detective Kenneth Pogg of the Essex County Prosecutor's Office were available at the meeting to provide further details regarding the waiver requests and answer any questions or concerns.

Commissioner Sharrock on behalf of the Standards Committee, moved and seconded a motion to deny the waiver request. Commissioner Knapp opposed the motion. The motion carried and the waiver request for Syed M. Naqvi was denied.

3. Commissioner Sharrock indicated that **Agenda Item 6C** was a consideration of a Request from the New Jersey State Police Benevolent Association requesting enforcement of N.J.A.C. 13:1-8.4(c)2.

On May 31, 2018 Administrator Cunningham received correspondence from Patrick Colligan, President, N.J. State Policemen's Benevolent Association, requesting enforcement of N.J.A.C. 13:1-8.4(c)2, which states:

Individuals who must complete a basic police training course are eligible for a partial waiver of training provided they have previously completed a basic training course for Class Two special law enforcement officers approved by the Commission and at least one year has elapsed since the individual has completed the Class Two basic course.

On April 3, 2013 the Police Training Commission approved a rule relaxation in reference to N.J.A.C. 13:1-8.4(c)2 on behalf of the Camden Metropolitan Police Department. Although the relaxation was specific to the Camden request. The rule was relaxed by the Commission on October 2, 2013 for all other SLEOII waiver candidates. The rule remains included in the New

Jersey Police Training Commission Rules and Regulations, Title 13.

Patrick Colligan and Kevin Lyons of the New Jersey State Policeman's Benevolent Association were available to offer more information and answer any questions.

The Commission voted to table this issue until October to allow PTC counsel time to review the change and prepare and legal memorandum to the commission citing any legal issues or case law.

Administrator Cunningham also noted that a working group would be formed with members of the PTC, NJSPBA and NJ Chief's Association to further review the SLEO II statute before the October meeting. This agenda item will be revisited and voted on at the October meeting.

4. Commissioner Sharrock reported that **Agenda Item 6D** was a report on the status of administrative oversight at Essex County College Police Academy

After a lengthy discussion at the Standards Committee meeting, Commissioner Sharrock on behalf of the Standards Committee, moved a motion to have Director Rocco Miscia or Retired Captain Lori Apicelli, OIC be the only two individuals allowed to provide administrative oversight at the Essex County College Public Safety Academy. In the absence of Director Miscia, OIC Apicelli must be present or the Academy will have to shut down operations for that day. In addition, Academy staff must present a staffing schedule every Friday by 12:00pm via email to Administrator Cunningham detailing who will be providing administrative oversight at the academy for the following week. Commissioner Aviles seconded the motion and motion was approved by the Commission.

During the question and comments section of the motion, the following representatives from the Essex County College were present: Deputy Counsel, Joy Toliver, Assistant Deputy Counsel, Surion Jack and Dean Elvira Vieira. The representatives spoke in reference to the June 20th plan submitted by the College regarding administrative oversight of the police academy. The plan called for Retired Captain, Lori Apicelli, OIC and Rangemaster Jeffrey Sutherlin to provide administrative oversight at the academy. Following the representative's presentation, Administrator Cunningham asked one clarifying question which was if the College had consulted with Director Miscia when selecting the staff to provide administrative oversight and the response was no.

Director Miscia was not present during the Standards Committee meeting when this agenda item was being discussed and he did not participate in any discussion amongst the other Commissioners regarding this issue.

5. Commissioner Sharrock reported that **Agenda Item 6E** was a report of a denial of a request from Director Charles Silverstein, Bergen County Law and Public Safety Institute, to enroll six members of the Morristown and Erie Railroad into the Basic

Course for Police Officers. Administrator Cunningham denied the request on behalf of the Commission and noted that all future requests from his agency would have to prove appointment through payroll records.

Commissioner Sharrock concluded the Standards Committee report.

Administrator Cunningham announced **Agenda Item 8A** was a Status Report of the Law Enforcement Officers Training and Equipment Fund (LEOTEF).

Technical assistance in preparing quarterly expense reports has been provided. Supplemental academy requests for LEOTEF purchases also have been reviewed and approved. All quarterly expense reports 1st quarter of 2018 have been received from all academies. Currently, I am receiving and reviewing quarterly expense reports for the second quarter of 2018.

The LEOTEF Subcommittee recommends that the Commission approve the next distribution of the LEOTEF Fund - SFY 2018.

- The collections in the LEOTEF account from the period of July 1, 2017 to June 30, 2018, (SFY 2018) totaled \$512,179.76.
- The LEOTEF Subcommittee voted and recommended a distribution of \$512,179.00 (\$.76 remaining in the general LEOTEF account).

This distribution and calculation is consistent with the Commission approved single distribution and formula for the LEOTEF Fund SFY 2017. The 30th distribution is based on a formula where each PTC approved academy is allocated \$134/per recruit for basic courses and a \$1/per recruit for instructor courses. (See attached "Subcommittee Recommendation for the 30th Distribution of LEOTEF Funds").

The application for the 30th distribution is also being prepared and will be made available to the police academies after the Notice of Available Funds is posted.

Administrator Cunningham reported on the status of the new PTC computer system. PTC staff continues to have regular working meetings with vendor. These meetings have allowed for additional functionality in the system and eventually will allow agencies to submit documents to the PTC remotely.

Administrator Cunningham asked if there were any comments from the public. There were no comments from the public.

Administrator Cunningham announced the next meeting is Wednesday, October 3, 2018.

Administrator Cunningham asked for a motion to adjourn the meeting at 1:33 p.m. Commissioner Colucci made a motion to adjourn the meeting. Commissioner Sharrock

seconded the motion. The Commissioners voted to approve the motion.