

Commission Meeting Number 334

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

POLICE TRAINING COMMISSION

Minutes of Commission Meeting

June 24, 2020

Location: Virtual Meeting

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	Kevin Lyons
New Jersey State Association of Chiefs of Police	James Abbott
New Jersey State Lodge, Fraternal Order of Police	James Sharrock (Ariel Cortez)
County Prosecutors' Association of New Jersey	Fredric Knapp Angelo Onofri
Sheriffs' Association of New Jersey	Robert A. Nolan
Police Academy Director's Association	Daniel Colucci (Thomas DePaul)
Commissioner-Department of Education	Carl Carabelli
Commissioner-Department of Corrections	Wayne Manstream (Alternate)
Federal Bureau of Investigation	Jason DeMartino Steve Martz Gary Beneducci
New Jersey Juvenile Detention Association	Thomas Pollio
New Jersey State Parole Board	Samuel Plumeri, Jr.
National Organization of Black Law Enforcement Executives	Jiles Ship

Citizen Member—Governor’s Appointment	Absent
Citizen Member—Governor’s Appointment	Vacant
New Jersey League of Municipalities	Absent
New Jersey Jail Wardens Association	Michael Tolerico
New Jersey State Police	Christopher Vozzo (Alternate)

Division of Criminal Justice Staff Present

Attorney General Gurbir Grewal

Special Assistant to the Attorney General, Joseph F. Walsh

Director Thomas Eicher, OPIA

Acting Deputy Director General Robert Czepiel

Deputy Attorney General Louise Lester, Police Training Commission

Deputy Attorney General Stephen Wenger, Prosecution Supervision and Training Bureau

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

Deputy Attorney General Emily Anderson, Prosecution Supervision and Training Bureau

Academy Coordinator Pat Jones, Police Training Commission

Academy Coordinator Forest Kairos, Police Training Commission

Analyst 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 June 24, 2020

Administrator John F. Cunningham called the 334th meeting of the Commission to order at 11:00 am.

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 for the minutes of the February 3, 2020 meeting to be tabled to a future date because they were still under revision due to COVID-19

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 February 3, 2020 PTC meeting:

Connor Conway v. Passaic County Police Academy

Commissioner Carabelli reported that the individual has no basis for an appeal because he was an Alternate Route recruit. No further action taken.

David Araujo v. Mercer County Police Academy

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to refer the appeal to the Office of Administrative Law. The Commissioners approved the motion.

Karil Vella v. Essex County Police Academy

Commissioner Carabelli reported that the recruit’s appeal was moot and required no further action.

Marcial Parker v. Mercer County Police Academy

Commissioner Carabelli reported that the appeal was closed and required no further action.

Jennifer Schelmetty v. Essex County Police Academy

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to uphold the dismissal. The Commissioners voted to approve the motion.

Lashea Graham v. Essex County Police Academy

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to uphold the dismissal. The Commissioners voted to approve the motion.

Amani Davis v. New Jersey Department of Corrections

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to uphold the dismissal. The Commissioners voted to approve the motion

2. Commissioner Carabelli reported the following Initial Decision was received from the Office of Administrative Law since the February 3, 2020 PTC Meeting:

Ruth Y. Henriquez v. Monmouth County Police Academy

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to accept the judge's recommendation. The commissioners approved the motion.

3. Commissioner Carabelli reported the following Final Decisions were issued since the February 3, 2020 PTC Meeting:

James Delre v. Mercer County Police Academy

Emily Bennett v. Camden County Police Academy

8. Consideration of **Extensions of Training Time** for County Corrections Officers, Juvenile Detention Officers and Police Officers

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

4B Consideration of a Request for an Extension of Training Time for Three County Corrections Officers (Monmouth County Sheriff's Office)

- 4C Consideration of a Request for an Extension of Training Time for Two County Corrections Officers (Somerset County Jail).
- 4D Consideration of a Request for an Extension of Training Time for County Park Ranger, Edward J. Cummings (Burlington County Park System).
- 4E Consideration of a Request for an Extension of Training Time for Juvenile Detention Officer, Karina Sanchez (Bergen County Juvenile Detention Center).
- 4F Consideration of a Request for an Extension of Training Time for Two Juvenile Detention Officers (Sussex County Juvenile Detention Center).

Commissioner Carabelli, on behalf of the Appeals and Legislation Committee, moved and seconded a motion to combine Agenda Items 4A- 4F as a consent agenda and to approve the extensions of training time requests. 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 Chief Kevin Pell, Bergen County Sheriff's Department, to appeal the Waiver Denials, SLEO II to BCPO, for David Longo and Kley Peralta Jr.

Chief Kevin Pell. Bergen County Sheriff's Department is appealing a staff decision to deny Waivers of Training from SLEO II to BCPO for David Longo and Kley Peralta Jr. On January 21, 2020, Chief Pell submitted waiver requests from SLEO II to BCPO on behalf of his agency. David Longo attended and graduated from the Essex County Police Academy on August 25, 2016 with a certification in the Basic Course for Special Law Enforcement Officer Class II. Upon review of the waiver request, it was noted that David Longo was appointed to the position of Sheriff's Officer; effective January 15, 2020; eligibility for a Waiver of Training had expired on August 25, 2019.

Kley Peralta Jr. attended and graduated from the Passaic County Police Academy on August 1, 2015 with a certification in the Basic Course for Special Law Enforcement Officers Class II. Upon review of the waiver request, it was noted that Kley Peralta Jr. was appointed to the position of Sheriff's Officer on January 15, 2020; eligibility expired on August 1, 2018. In accordance with the provisions of N.J.A.C. 13:1-8.4(b), staff determined that David Longo and Kley Peralta Jr. were not eligible for Waivers of Training, at the time of their appointment to the title of Sheriff's Officer, they had exhausted their three years of waiver eligibility.

Commissioner Sharrock, on behalf of the Standards Committee, moved and seconded a motion deny the waiver appeal for Kley Peralta, Jr. and to approve the waiver appeal for David Longo should he meet the new SLEOII requirements. The Commissioners voted to approve the motion.

2. Commissioner Sharrock indicated that **Agenda Item 6B** was a Consideration of a **Request** for Rule Change of N.J.A.C. 13: I -8.4-Waivers

On April 3, 2019, the Police Training Commission voted to revise N.J.A.C. 13:1-8.4 Waivers, Special Law Enforcement Officer Class II to Basic Course for Police Officer. The Commission authorized a fourth year of waiver eligibility for individuals who meet the following criteria:

- 1.) SLEO II officers who have served four hundred (400) hours of on duty time with a police agency since their appointment. The hours must be verified through payroll records; certifications that the officer worked 400 hours will not be accepted.
- 2.) The SLEO II waiver candidate must be up to date on all in-service training requirements.

Commissioner Sharrock, on behalf of the Standards Committee, moved and seconded a motion to make the following rule changes:

- 1.) SLEO II officers who have served one thousand hours (1,000) hours of on duty time with a police agency since their appointment. The hours must be verified through payroll records; certifications that the officer worked 1,000 hours will not be accepted.
- 2.) The SLEO II waiver candidate must be up to date on all in-service training requirements.

Commissioner also stated that the motion allows for PTC Administrator Cunningham to approve the waivers on a case by case basis until the rule change is approved and in effect.

3. Commissioner Sharrock indicated that Agenda Item 6C was a Consideration of a **Request** from The Sheriff's Association of New Jersey to reconsider the PTC regulation on domestic violence complaints involving academy recruits.

On January 10, 2020, the Police Training Commission ("PTC") received a letter from the Sheriff's Association of New Jersey ("Association") asking the PTC to reconsider its rule that a trainee shall be dismissed from their academy if charged with an act of domestic violence under N.J.S.A. 2C:25-1 et seq., the Prevention of Domestic Violence Act. Under the current rule, a recruit is dismissed from their academy after being charged with domestic violence. Even if the

reported act is later found to be unsubstantiated within a short period of time. The Association has requested that, prior to dismissal, the academy director review a request from the sending agency and make a case-by-case determination whether to dismiss the recruit.

Changing the current rule would place academy directors in an untenable situation. Directors would be forced to make decisions based on incomplete information weighed against non-existent criteria. Unlike a law enforcement agency, the academy has no provision for restricted duty. Recruits must fully participate in all aspects of training. In most domestic violence situations, the recruit would be restricted from possessing a firearm. This alone would preclude the recruit from full participation in their academy class. While the commission is sympathetic to recruits who are falsely accused, the academy directors would not have the necessary information to decide whether an individual case warrants a dismissal. Additionally, it is important that all such cases are treated similarly throughout the State. Individual determinations made on a case-by-case basis might result in disparate outcomes for such cases based on the academy class that the recruit is attending. Therefore, a change in policy would not be warranted.

Commissioner Sharrock advised that the report from the Standards committee is that the domestic violence rule will not be reversed; no action taken.

4. Commissioner Sharrock indicated that Agenda Item 6D was a Consideration of a **Request** from Samuel Plumeri, Chairman New Jersey State Parole Board, that the Police Training Commission allow newly hired Parole Officers, whom possess a BCPO Certification, receive BCI Certification, through the Modified Basic Course for Investigators.

On June 18, 2020, the Police Training Commission received a letter from Samuel Plumeri, Chairman New Jersey State Parole Board, concerning a change to the BCPO to Parole Officer Waiver. Chairman Plumeri is requesting that the Police Training Commission allow newly hired Parole Officers, whom possess a BCPO Certification, receive BCI Certification, through the Modified Basic Course for Investigators.

On October 5, 2011, the Police Training Commission authorized a waiver from BCPO to Parole, however, it was not the standard BCPO to Basic Course for Investigators, it did not allow Parole (BCPO) to attend the MBCI.

Administrator Cunningham reviewed the Commission Minutes from April 2011, August 2011, and October 5, 2011, where the request to create a waiver for BCPO to Parole was discussed, however, there was no specific reason as to why Parole was excluded from the standard MBCI waiver. In addition, Administrator Cunningham reviewed Robert Melson's memorandum to the Commission, dated September 21, 2011 that mentions the exclusion of MBCI for Parole, unfortunately, no reason is supplied.

Commissioner Sharrock, on behalf of the Standards Committee, moved and seconded a motion to allow individuals hired by Parole who already possess a BCPO certification to be allowed to attend the MBCI to obtain a BCI certification. The Commissioners voted to approve the motion.

5. Commissioner Sharrock indicated that **Agenda Item 7A** was a Consideration of a **Request** to revoke the PTC Instructor Certification for Mohamed Lostan, Passaic County Police Academy

On November 25, 2019, Instructor Mohamed Lostan, Passaic County Police Academy, did enter a guilty plea, in the North Haledon Municipal Court, to 2C:33-2a, Disorderly Persons Offense, related to an incident at the Passaic County Police Academy, during the Basic Course for County Corrections Officer.

On November 29, 2017, Corrections Recruit Kevin Nelson alleged to have been slapped in the face by Instructor Lostan, during graduation practice. The incident was not reported to the academy until December 5, 2017, when Passaic County Sheriff Richard Berdnik, brought it to the attention of Academy Director Lyons. The matter was then forwarded to the Passaic County Prosecutors Office for investigation. The investigation concluded with a finding of, "insufficient evidence" to file a charge. On November 15, 2018, Recruit Nelson filed two complaints in the Wayne Municipal Court against Instructor Lostan. 2C:12-1A Simple Assault, and 2C:33-4B Harassment. The hearing in this matter was transferred to the North Haledon Municipal Court due to a potential conflict of interest. Upon review of N.J.A.C. 13: I -4.5(c)2, Certifications, an instructor's certification may be withdrawn by the Commission: "if the instructor has been charged with or convicted of a crime or disorderly or petty disorderly persons offense". In this instance, Instructor Lostan plead guilty to a disorderly persons offense which resulted in him receiving a one year term of probation, upon successful completion of the probation, the charges will be dismissed. In light of the guilty plea entered by Instructor Lostan in the Wayne Municipal Court, and the fact it directly relates to his responsibilities as an instructor, his certification was suspended pending review of this matter by the full Commission.

Commissioner Sharrock, on behalf of the Standards Committee, moved and seconded a motion stating that Lostan's instructor application will be required to come before the full commission for review for recertification. Commissioner Lyons opposed the motion. The motion carried.

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).

LEOTEF Chairperson, Daniel Colucci reported that all police academies have returned their contracts for SFY 2019 LEOTEF Funds (31st distribution). All contracts have been executed and funds disbursed. Quarterly expense reports for the 4th quarter of 2019 were reviewed and processed.

Technical assistance in preparing quarterly expense reports was provided. Supplemental academy requests for LEOTEF purchases were also reviewed and approved.

Administrator Cunningham announced **Agenda Item 8B** was the Consideration of the PTC Licensing Report.

Since December 2019, the Police Training Commission (PTC) has been working to develop and implement a plan that would require State licensure of law enforcement officers. Early on, the PTC recognized that the licensing of law enforcement officers is essential to help ensure that all New Jersey officers are held to the same standards of professionalism. In light of recent events involving the alleged excessive use of force by law enforcement officers and the current public protests and riots that have ensued throughout the country as a result, it is more important than ever that New Jersey continue moving forward in developing and implementing its plan for the State licensure of law enforcement officers.

There is a nation-wide need for enhanced training of new police recruits and continued police training for veteran police officers in the proper “use-of-force” when making arrests and restraining individuals. Additionally, there is a continued nation-wide need to strengthen certain urban community and police relationships to eradicate mistrust and negative perceptions that each may have for the other.

Fortunately, New Jersey has been on the forefront of strengthening community and police relations through community engagement, such as law enforcement interactions with faith-based groups, and several other initiatives implemented by the Attorney General’s Office. However, there is, and always will be a need to ensure that New Jersey’s law enforcement officers are properly trained and conduct themselves with the professionalism that the title “Law Enforcement Officer” requires. To that end, the State, in order to help protect the health, safety and welfare of its citizens, must have the ability to monitor and properly discipline officers who act outside the bounds of professionalism and engage in illegal or improper conduct. 2

To help ensure that law enforcement officers throughout the State are all held to the same standards of professionalism and can be properly disciplined or removed from office if those standards are violated, the PTC is proposing the Statewide “licensure” of law enforcement officers. Licensure of officers will require that all individuals that fall under the definition of “law enforcement officer” will have to meet certain uniform professional standards to become or continue to be an active law enforcement officer. Licensure will establish uniform standards of police conduct that will allow New Jersey to monitor and share information about officers who violate those standards.

Attorney General Grewal spoke and thanked Administrator Cunningham for his leadership especially during the COVID-19 pandemic. He advised that he is support of licensing and believes that it is a big step to establish baseline professionalism and accountability. He also thanked the police unions for their work and support.

Commissioner Lyons from the State PBA also read a statement on behalf of the organization.

Commissioner Colucci made a motion for the Police Training Commission to move forward with the process of licensing. Commissioner Nolan seconded the motion. All agencies present and the citizen member voted in favor of the motion (one citizen appointment is currently vacant.)

Attorney General Grewal voted in favor of the motion. Commissioner Lyons from the State PBA also read a statement on behalf of the organization. The motion was approved.

Administrator Cunningham announced **Agenda Item 8C was a Review** of the Training Committee Report

This memorandum addresses two proposals: (1) the Police Training Commission's proposed enhancements to the training curriculum at New Jersey police academies; and (2) the Unarmed Defensive Tactics Subcommittee's proposed recommendations on how to improve law enforcement defensive tactics training. Both proposals are submitted as a means to supplement and enhance the training law enforcement officers receive in an effort to increase the delivery of safe and effective police services to the public. Administrator Cunningham requested that the Commission adopt the recommendations and forward to the Attorney General, as requested in his December 4, 2019 letter to the PTC.

Commissioner Plumeri made a motion to accept the report and to move the report forward, making it inclusive of the Department of Corrections. Commissioner Knapp seconded the motion and the motion was approved.

Administrator Cunningham announced **Agenda Item 9A** was the PTC's Computer System Update. Administrator Cunningham reported that PTC staff is still currently working in the Acadis system and that all is going well. He advised that the PTC hopes to be able to bring academies on board via a portal in the near future.

Administrator Cunningham asked if there were any comments from the public. Administrator Cunningham thanked the Police Academy Directors Association and all of the academy directors for all of their hard work, compliance and understanding during the pandemic to help keep academies running smoothly and ensuring that recruits are still being trained at a high and safe level

Administrator Cunningham announced the next meeting is Wednesday, August 5, 2020

Administrator Cunningham asked for a motion to adjourn the meeting at 11:45 am. Commissioner Sharrock made a motion to adjourn the meeting. Commissioners Nolan and Colucci seconded the motion. The Commissioners voted to approve the motion.