



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

**STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER T. SUNUNU, GOVERNOR**

Executive Order 2020-19

**An order regarding implementation of recommendations of the New Hampshire
Commission on Law Enforcement Accountability, Community, and Transparency**

WHEREAS, in the wake of the tragic murder of George Floyd in Minneapolis, Minnesota, our country continues to engage in a nationwide conversation regarding law enforcement, social justice, and the need for reforms that enhance transparency, accountability, and community relations in law enforcement; and

WHEREAS, law enforcement in New Hampshire make daily sacrifices, serve our State admirably, and are a necessary and pivotal part of our communities; and

WHEREAS, the State of New Hampshire has an obligation to participate in the national conversation and engage in self-examination to identify opportunities to improve the state of our law enforcement and the relationship between law enforcement and the communities they serve; and

WHEREAS, New Hampshire finds itself in a pivotal moment that demands prompt action to initiate important conversations and develop recommendations for reform; and

WHEREAS, on June 16, 2020, the Governor issued Executive Order 2020-11, which established the New Hampshire Commission on Law Enforcement Accountability, Community and Transparency (the "LEACT Commission"); and

WHEREAS, on August 31, 2020, the LEACT Commission issued its final report, which included 48 recommendations for reforms that the Commission deemed necessary to enhance transparency, accountability and community relations in law enforcement; and

WHEREAS, on September 17, 2020, the Governor issued a statement endorsing all of the recommendations of the LEACT Commission and put forward a road map for implementation of each of the recommendations; and

WHEREAS, many of the recommendations of the LEACT Commission can be implemented in whole or in part by Executive Order and rulemaking.

NOW, THEREFORE, I, CHRISTOPHER T. SUNUNU, GOVERNOR of the State of New Hampshire, by the authority vested in me pursuant to part II, article 41 of the New Hampshire Constitution, do hereby order, effective immediately, that:

Certification - Training Requirements

1. The Director of the Police Standards and Training Council (PSTC) shall take all necessary steps, including initiating appropriate rulemaking, to:
 - (a) Increase the mandatory number of required hours of annual in-service training on an incremental basis over the next three years to ensure that, by January 1, 2024, the total mandatory number of hours of annual in-service training is no less than twenty-four hours.
 - (b) Mandate that annual in-service training as approved by PSTC include, at a minimum, two hours on each of the following topics:
 - i. Implicit bias and cultural responsiveness
 - ii. Ethics
 - iii. Deescalation
 - (c) Incentivize and encourage all law enforcement agencies to require their officers to receive at least two hours of training annually in the following areas:
 - i. Implicit bias and cultural responsiveness
 - ii. Ethics
 - iii. Deescalation

Certification and Ongoing Training Curriculum

2. The Director of PSTC shall conduct a review of academy and in-service training curriculum and take all necessary steps, including initiating appropriate rulemaking, to:
 - (a) increase the number of hours or scenario based training in both academy and in-service settings by an amount which PSTC deems necessary after consultation with the Department of Justice, Department of Safety, local law enforcement agencies, and community partners;
 - (b) in consultation with one or more community partners, amend the current lesson plan on cultural dynamics as necessary to ensure that the topic is properly addressed;
 - (c) 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;

- (d) improve and augment police academy and in-serving training on de-escalation techniques by adopting the Police Executive Research Forum's (PERF) Integrated Communication and Tactics training (ICAT) or similar training;
 - (e) improve and augment police academy training on police ethics by re-instituting the ethics block of construction in police academy training;
 - (f) improve and augment police academy and in-service training on the duty to intervene by adopting Georgetown University's Active Bystandership Law Enforcement (ABLE) training or similar training; and
 - (g) utilize an attorney from the Attorney General's Office to provide, during training on applicable topics, instruction on *State of New Hampshire v. Jones* (January 10, 2020) and any other State court decisions where race or protected class was a matter the court considered when reaching its decision.
3. In addition to the specific steps outlined in Section 2 of this Order, the Director of PSTC shall take all necessary steps to initiate a Job Task Analysis for entry-level law enforcement officers and entry-level corrections officers and, based upon those findings, conduct an overall review of the present academy curriculums. Based upon this review, the Director shall, within 120 days from the date of this Order, submit a recommendation to PSTC and the Governor as to whether the current length of the police academy should be expanded beyond 16 weeks.
 4. Upon completion of the Job Task Analysis conducted pursuant to Section 3 of this Order, the Director of PSTC shall conduct a review of the Part-Time Police Officer certification process. Based upon this review, the Director shall, within 120 days from the date of this Order, submit a recommendation to PSTC and the Governor as to whether changes should be made to (i) the length of the training period for part time officers and (ii) the scope of law enforcement functions that part-time officers are allowed to perform.
 5. The Director of PSTC shall take all necessary steps, including but not limited to providing recommendations to the Governor on necessary funding in the next biennial budget, to develop 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 his or her training completion, any incidents of sustained misconduct, movement from agency to another, and decertification, and (2) developing and delivering standardized on-line training to all law enforcement officers in an efficient and economical way.

Reporting and Investigation of Misconduct

6. The Director of PSTC, in collaboration with other law enforcement agencies and using nationally vetted best practices as set forth by the IACP, PERF, Commission on Accreditation for Law Enforcement Agencies (CALEA), and National Organization of Black Law Enforcement Executives (NOBLE), shall create policy guidelines on the following topics:

- a) Use of Force
 - b) Duty to Intervene
 - c) Code of Conduct
 - d) Duty to Report Misconduct
 - e) Prohibition of Chokeholds
 - f) Procedures to Guard Against Positional Asphyxia
7. The Director of PSTC shall initiate rulemaking to amend administrative rule POL 301.05 to mandate that background investigations for police recruit candidates specifically vet such candidates for demonstrations of outward bias toward a protected group by way of past history, behavior, affiliation with a subversive group, social media posts and other objective sources, and that these findings be considered in the overall decision to hire such candidates.
8. Within 30 days of the date of this Order, the Attorney General shall take the following actions:
- a) Establish a Public Integrity Unit within the Department of Justice using existing resources within the Department. The purpose of the Public Integrity Unit shall be to promote a uniform approach to the investigation and prosecution of alleged criminal conduct by government officials, including law enforcement officials. Within 60 days of the date of this Order, the Attorney General shall submit recommendations to the Governor for additional necessary resources for the completion of the build out of the Unit, including estimated funding needs for inclusion in the next biennial budget.
 - b) Establish a community outreach position within the Department of Justice to facilitate communication between all state, county, and local prosecution offices and New Hampshire's diverse communities.
 - c) Take all necessary action to require or provide implicit bias and racial profiling training for all New Hampshire prosecutors, including city prosecutors and police prosecutors.
 - d) Take all necessary actions to require or provide implicit bias and racial profiling training for all attorneys, investigators, legal staff, and victim/witness advocates in the Attorney General's Office and County Attorney Officers, and for all State agency attorneys.
9. The Executive Director of the Judicial Council shall take all necessary steps, including initiating rulemaking or seeking contract amendments, to require implicit bias and racial profiling training for all New Hampshire public defenders.
10. The Commissioner of the Department of Safety and the Colonel of the State Police shall take all necessary steps to equip State Police with body worn cameras, including but not limited to either (i) identifying available funding in the Department of Safety's existing budget and seeking necessary approvals to utilize such funding for the purpose of equipping State Police with body worn cameras or (ii) providing recommendations to the Governor on necessary funding to be included in the next biennial budget. Once funding has been identified and

approved and the necessary equipment is obtained and ready for use, the use of body worn cameras shall be required for State Police in any circumstance where State Police interact with members of the public and use of body worn cameras is permitted by existing State or Federal law. Within 60 days of the date of this Order, the Commissioner of the Department of Safety shall submit a plan for implementation of this directive to the Governor. This plan shall include, at a minimum, identification of the necessary funding and a timeline for final implementation.

Law Enforcement and Community Relations

11. All State law enforcement agencies shall:

- a) Take all necessary steps, including initiating rulemaking, to adopt the following definition of “community policing” as set forth by IACP:

“Community policing is a comprehensive philosophy that guides policy and strategy aimed at achieving more effective and efficient crime control, reduced fear of crime, improved quality of life, and improved police services and police legitimacy through a proactive reliance on community resources that seeks to change crime causing conditions. This assumes a need for greater accountability of police, elected community leaders, and the community in general, along with greater public share in decision-making through the identification of service needs and priorities and a greater concern for civil rights and liberties.”

- b) Establish and dedicate a team to focus on community policing and engagement. This team shall, among other things, (i) engage in community relationship building by working collaboratively with community liaisons, public agencies, non-profits, community stakeholders and existing community-based programs and (ii) identify opportunities to promote community events and use social media and Public Service Announcement (PSA) campaigns to educate the public about law enforcement officers and their work.
- c) Take all necessary steps, including initiating rulemaking, to require ongoing training for law enforcement officers that empowers and enables individual officers to engage in community policing and relationship building efforts.

12. The Director of PSTC shall ensure that PSTC maintains and publishes a list of all currently CALEA accredited law enforcement agencies within New Hampshire.

School Resource Officers

13. The Director of PSTC shall:

- a) Take all necessary steps, including initiating rulemaking, to mandate certification for school resource officers (SROs) that requires each SRO to complete, prior to assignment, both (i) National Association of School Resource Officers (NASRO) training and (ii)

Mirror Project Train-the-Trainer and Effective Police Contact with Youth training. If the Director determines that legislation is necessary to enable rulemaking on this topic, the Director shall submit recommended legislative language to the Governor within 30 days of this Order.

- b) Take all necessary steps, including initiating rulemaking, to develop and implement mandatory annual in-service training requirements for SROs to maintain their certifications. If the Director determines that legislation is necessary to enable rulemaking on this topic, the Director shall submit recommended legislative language to the Governor within 30 days of this Order.
- c) Work with stakeholders and the State Board of Education and oversee the development of a model SRO Memorandum of Understanding (MOU) to be used by police departments and School Administrative Units (SAUs) that clearly defines the roles, expectations and prohibitions of the SRO's role in the school setting and specifically with regard to the SRO's role in student discipline for non-criminal matters.

Recruitment for State Law Enforcement Agencies

- 14. All State law enforcement agencies shall establish a team to continue and enhance the each agency's efforts to recruit officers from minority communities. This shall include the development of a new comprehensive plan and strategy to actively attract, recruit, and retain diverse law enforcement candidates, including candidates from outside New Hampshire. Each State law enforcement agency shall submit this plan and strategy to the Governor within 60 days of the date of this Order, and upon submittal this plan and strategy shall be published on each agency's website and Governor's Office website.

Gender Non-Conforming Community

- 15. All State law enforcement agencies shall take all necessary steps, including initiating rulemaking, to require ongoing training for law enforcement officers that advances the relationship between officers and the gender non-conforming population including, but not limited to, training on pronoun inclusion.

Deaf and Hard of Hearing Community

- 16. Each law enforcement agency shall develop a plan to advance relationships with the deaf and hard of hearing community. The plan for the Division of State Police shall address, among other things, the potential for greater use and dissemination of driver visor cards by State Police.

Mental Well-Being of Officers

- 17. All State law enforcement agencies shall take all necessary steps, including initiating rulemaking, to require ongoing training regarding the mental well-being of officers. Such

training shall include information regarding the high rates of post-traumatic distress, depression and suicide among law enforcement officers and available resources for seeking help.

18. The Director of PSTC shall form a team to review whether to require mandatory periodic psychological screenings of law enforcement officers, similar to what is currently required for physical fitness under Pol 404.07, to determine ongoing fitness for duty and assist with referring officers for mental health treatment and support.

Implementation of the Directives in this Order

19. Within 60 days of the date of this Order, the Director of the PSTC, the Attorney General, the Executive Director of the Judicial Council, the Commissioner of the Department of Safety, and the head of each State law enforcement agency shall, as applicable, submit to the Governor an estimated timeline for implementation of the Directives contained in this Order.
20. On or before November 1, 2020, and the first day of every month thereafter until implementation of all directives in this Order is complete, the Director of the PSTC, the Attorney General, the Executive Director of the Judicial Council, the Commissioner of the Department of Safety, and the head of each State law enforcement agency shall, as applicable, submit monthly reports to the Governor summarizing the progress made on implementation of each of the directives in this Order. These reports shall be posted on the Governor's Office website on the LEACT Commission page.
21. All directives contained within this Order shall be fully implemented by July 1, 2021, unless otherwise provided in this Order. The Governor may approve extensions to this deadline on a case by case basis.

Given under my hand and seal at the Executive
Chambers in Concord, this 7th day of October, in
the year of Our Lord, two thousand and twenty, and
the independence of the United States of America,
two hundred and forty-four.



GOVERNOR OF NEW HAMPSHIRE

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

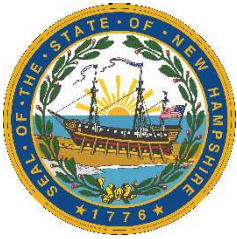


Report and Recommendations

Submitted August 31, 2020

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

I. Introduction

On June 16, 2020 Governor Christopher T. Sununu created the Commission on Law Enforcement Accountability, Community and Transparency (LEACT) by Executive Orders 2020-11 and 2020-13. Copies of these Orders appear at Appendix A. The LEACT Commission was specifically charged with examining training curriculum, procedures and policies throughout the State; procedures related to the reporting and investigation of police misconduct; the current state of relationships between law enforcement and the communities they serve; and any other subject matter the Commission deemed relevant. Through the course of its work, the Commission deemed the following subject matters relevant to the overall mission of enhancing transparency, accountability, and community relations in law enforcement: mental health and well-being and the results of the February 2019 Office of Legislative Budget Assistant New Hampshire Police Standards and Training Council Performance Audit.

Over the course of 10 weeks, the Commission met 26 times and heard testimony from 24 subject matter experts, including Commission members, and 25 members of the public. Many individuals who testified before the Commission also submitted written testimony. Additionally, the Commission received more than 50 written submissions from a variety of individuals who did not testify. Oral and written testimony is part of the public record and is accessible at www.governor.nh.gov/accountability. Commission members considered all written submissions and asked probative questions of witnesses in order to make the following comprehensive recommendations.

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 **New Hampshire** Police Standards and Training Council (**NH PSTC**), 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 **NH PSTC**.



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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. **NH PSTC** oversees such a school, known informally as the police academy.¹

NH PSTC 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. **NH PSTC** has extensive enumerated powers including with respect to rulemaking, standard setting and the conduct of administrative hearings. RSA 106-L:5. **NH PSTC** is 100 percent funded by the General Fund. Its total budget for the State Fiscal Year 2021 is \$3,472,749.

NH PSTC also has authority to nominate and appoint a director of police standards and training. RSA 106-L:5, XVIII. On March 16, 2020, **NH PSTC** 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.

NH PSTC 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 **NH PSTC**’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 **topics** and hours appears at Appendix B. There are both classroom and hands-on components to the curriculum. Class exams are conducted during the course of an academy.

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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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 capsicum spray (otherwise known as “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

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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operations spread across seven troops, the State Police also engages 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 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 an 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 are 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 at Appendix C. 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 become 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

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



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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 municipalities' 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.

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.

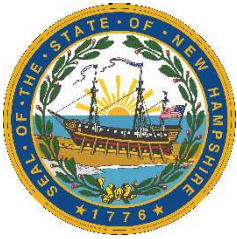
Because of the enormous variation in department sizes and resources, there is variation in policies, procedures and training. For example, the Manchester Police Department – the largest municipal law enforcement agency in New Hampshire – requires newly hired officers to undergo eight weeks of training,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

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.

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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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."

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

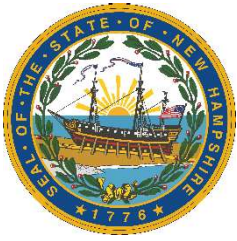
In addition to the witnesses discussed above, the Commission heard testimony from 18 members of the public on July 9 & 14, 2020. Other individuals submitted written testimony. Several themes repeated throughout the discussion of training curriculum procedures and policies. These included the need for training in the areas of de-escalation, implicit and unconscious bias, ethics, and increase in the number of hours required for yearly in-service training required for a law enforcement officer to maintain certification.

Recordings of all of the Commission's hearings are available on its website: www.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

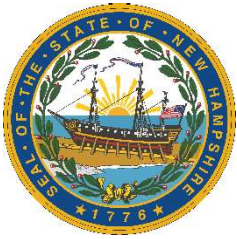
Members of the public made the following specific recommendations for improvements and reforms with respect to training curriculum, procedures and policies:

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.



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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.
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.



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21. Require prosecutors to inform agencies when evidence is suppressed or a case is dismissed/abandoned in court.

c. Commission Recommendations

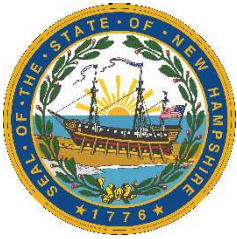
The Commission makes the following recommendations for reforms and improvements with respect to training curriculum, procedures and policies:

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;
 - ii. Ethics; and
 - iii. De-escalation.
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

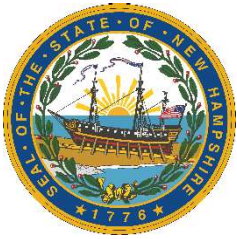
3. NH PSTC should conduct a Job Task Analysis (JTA) for entry-level law enforcement officers and entry level corrections officers and based on those findings, conduct an overall review of the present academy curriculums. Based on curriculum changes founded in the JTA, an extension of the length of the 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



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purpose of: 1) maintaining a full record over the course of an officer's career of his/her 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 **officers** 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.
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 Georgetown University's Active Bystandership



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Law Enforcement (ABLE) training, (formally known as EPIC training) or similar training.

12. NH PSTC should include **in its instruction** *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 JTA** 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 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 toward 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.

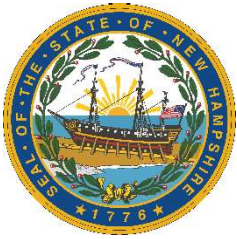
III. Other Recommendation

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.

III. Reporting and Investigation of Police Misconduct

Executive Order 2020-11 directs that the Commission shall examine: "State and local procedures related to the reporting and investigation of police misconduct, and potential reforms which may include, but are not limited to, development of a uniform statewide system for the reporting, investigation, and punishment of police misconduct." Executive Order 2020-11, at ¶ 3 (b).

This section of the report describes the current state of procedures related to the reporting and investigation of police misconduct, at both the state and local level; summarizes public testimony and recommendations on these subjects; and sets forth the Commission's



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recommendations with respect to state and local procedures related to the reporting and investigation of police misconduct.

a. Current State of Laws, Policies and Procedures Governing Reporting and Investigation of Police Misconduct

Police Misconduct

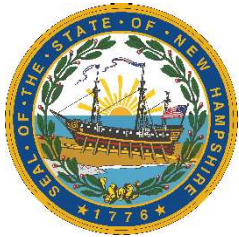
There is no universal definition of police misconduct subject to reporting, investigation, and discipline. While on July 16, 2020, Governor Sununu signed HB 1645 into law, which defines “misconduct” in the context of law enforcement as: “assault, sexual assault, bribery, theft, tampering with evidence, tampering with a witness, use of a chokehold, or excessive and illegal use of force as defined by the New Hampshire criminal code,” this definition does not encompass all misconduct which could lead to criminal charges or departmental discipline.⁷ The “misconduct” definition in HB 1645 becomes effective January 1, 2021.

New Hampshire Police Standards and Training Council (NH PSTC) has extensive enumerated powers as discussed above.⁸ Among those powers is the authority to revoke or suspend a law enforcement officer’s certification. RSA 106-L:5; Pol 402.02. All law enforcement officers, except elected county sheriffs, must be certified by NH PSTC. RSA 106-L:2 (I). Reasons for revocation or suspension of a certification include conviction of a felony level offense; conviction of a misdemeanor level offense with a sentence of incarceration; and conviction of a crime of “moral turpitude or of a crime which tends to bring discredit on the police or corrections service.” Pol 402.02. The rule includes a non-exhaustive list of qualifying offenses, only some of which are also included in the “misconduct” definition above. Pol 402.02 (a)(4).

In determining whether to decertify an officer, NH PSTC must hold a hearing to determine if there has been a violation of NH PSTC rules. NH PSTC usually becomes aware of a rule violation in one of three ways: 1) notification that officer has allegedly engaged in criminal conduct; 2) notification of an officer’s change of status (e.g. demotion, suspension, termination); or 3) receipt of a complaint against an officer from the general public. When determining whether to suspend or revoke a certification, NH PSTC must “apply a balancing test to determine whether factors constituting just cause [not to suspend or revoke a certification] outweigh the public interest in protecting the safety of the public or confidence in the criminal justice system.” Pol 402.02 (e). The officer facing suspension or revocation of certification has the burden to show just cause why his/her certification should not be suspended or revoked. *Id.* Examples of just cause may include “[s]uspension or revocation would not have a rehabilitative value and

⁷ Discussed above at ¶ II, a, iv.

⁸ See ¶ II, a, i.



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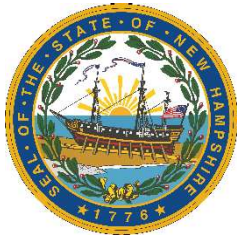
[t]he officer's health or service status makes suspension or revocation a needless gesture." Pol 402.02 (f).

Currently, there is no statewide database to track reports or investigations of police misconduct. NH PSTC tracks revocations and suspensions of certifications in an antiquated and not easily searched system often consisting of paper files or ad-hoc entries in an excel spreadsheet. Data maintained by NH PSTC is under-inclusive for purposes of tracking police misconduct throughout New Hampshire. Not every report or complaint of misconduct is made to NH PSTC in the first instance or reported by the law enforcement agency that received and/or investigated a complaint.

Similarly, there is no standardized process for how such complaints should be investigated or by whom. Investigations into police misconduct are generally not available to the public as the contents of law enforcement personnel files are confidential by statute. RSA 105:13-b (III). An exception to this rule is made for the disclosure of "exculpatory evidence in a police personnel file of a police officer who is serving as a witness in any criminal case." RSA 105:13-b (I). "The duty to disclose exculpatory evidence that should have been disclosed prior to trial under this paragraph is an ongoing duty that extends beyond a finding of guilt." *Id.* Likewise, there is no standard period of time for how long a law enforcement personnel file must be retained, rather the time period is typically controlled by various collective bargaining agreements negotiated by the police unions in the State.

Individual law enforcement agencies routinely conduct internal affairs investigations of the officers in their agencies. As stated above, such investigations are not regulated by a uniform policy or procedure. A complaint made directly to NH PSTC is often referred back to the law enforcement agency that is the subject of the complaint, or, if the conduct is alleged to be criminal, to the Office of the Attorney General or the County Attorney's Office with jurisdiction over that agency. NH PSTC has the authority to audit law enforcement agencies' compliance with Council rules, however this authority does not allow for the examination of police personnel files.

Deputy Attorney General Jane E. Young, the Chair of the Commission, testified before the omission and provided written materials that are part of the record. She testified that currently, the Public Integrity Unit of the Office of the Attorney General investigates and prosecutes allegations of criminal misconduct by state officials including state law enforcement officers. The criminal misconduct must typically bear a connection to the officer's performance of his or her official responsibilities. The Public Integrity Unit is not currently legislatively mandated. Allegations of criminal misconduct by county or municipal law enforcement officers are usually most appropriately reviewed and investigated by county and municipal authorities. However, how such matters are investigated and prosecuted vary amongst the ten county attorney offices. A copy of the Law Enforcement Memo regarding Public Integrity Investigations Policies and Procedures issued by Attorney General Gordon J. MacDonald appears at Appendix D.



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Police Commissions

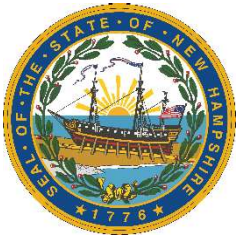
Individual law enforcement agencies are accountable to their municipalities via a town manager, board of selectmen or aldermen, an elected or appointed police commission, or a combination thereof. There are at least two types of police commissions in New Hampshire. Those authorized by RSA 105-C and those that are otherwise authorized by a city or town charter. The adoption of a traditional three-person police commission and its method of selection is decided by the voters of a municipality. RSA 105-C:2 & 3. The police commissioners' duties and powers include the appointment, promotion and removal of police personnel, and creation and enforcement of rules "necessary for the operation of the police force in the manner most beneficial to the public interest." RSA 105-C:4. A police commission otherwise created by a city or town charter does not have the same powers.

Prosecutors' Obligations

Deputy Attorney General Young also testified that prosecutors in criminal cases have constitutional obligations to disclose potentially exculpatory evidence and information that could be used to impeach the testimony of a prosecution witness. *Brady v. Maryland*, 373 U.S. 83 (1963) ("Society wins not only when the guilty are convicted, but when criminal trials are fair; our system of the administration of justice suffers when any accused is treated unfairly."); *Giglio v. United States*, 405 U.S. 150 (1972) (If information would be material to the preparation or presentation of the defendant's cases, it must be turned over.); *State v. Laurie*, 139 N.H. 325 (1995) (State is required to provide all evidence of favorable proofs). The Exculpatory Evidence Schedule (EES) (formerly known as the *Laurie* List) is a device originally intended for prosecutors to reconcile their obligation to disclose exculpatory evidence with the legislatively mandated confidentiality of police files. The EES contains the names of officers that have been deemed by the head of his/her law enforcement agency as having potentially exculpatory information in his/her personnel file. Based on current law, the EES is not publicly available. Public access to the EES is currently being litigated at the New Hampshire Supreme Court.

Immunity

Senior Assistant Attorney General Matthew Broadhead testified before the Commission. Senior Assistant Attorney General Broadhead testified that law enforcement agencies and officers are subject to civil lawsuits for federal and state causes of action alleging violations of constitutional rights or intentional torts. When facing a federal suit, an officer may assert the judicial doctrine of qualified immunity. The purpose of qualified immunity is to protect government officials acting under the color of law and engaged in conduct that might touch upon constitutional rights. It is immunity from suit itself and is determined at the earliest possible stage of the proceedings. Once qualified immunity is raised, the litigation may continue only if the plaintiff can show a clearly established constitutional right that was violated. In order to show the constitutional right was "clearly established," there must be a robust consensus such that would put the officer on notice that his/her action(s) were impermissible.



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In response to state causes of action in New Hampshire, law enforcement officers may assert official immunity pursuant to RSA 99-D or RSA 541-B. An officer is immune from civil suit if the officers took some discretionary action that was within the scope of the officer's employment, and the action was not taken in a wanton or reckless manner. Whether RSA 99-D provides official immunity is based on an objective, reasonable person standard while RSA 541-B accounts for the subjective mindset of the officer. If the request for immunity is denied, an officer may still litigate any other available defenses. For state causes of action, the employing entity, either State or municipality, decides whether to indemnify the individual officer so long as the officer's conduct was not wanton or reckless.⁹

b. Summary of Public Testimony Received by the Commission

In addition to the **information witnesses** discussed above, the Commission heard testimony from **nine** members of the public **on August 20, 2020**. Other individuals submitted written testimony. The Commission received testimony on the reporting and investigation of police misconduct throughout the entirety of its work. Several themes repeated throughout the discussion of police misconduct. These included the need for greater transparency of police misconduct allegations, investigations, the names of officers on the *Laurie* List/EES and police personnel files as well as the need for civilian oversight.

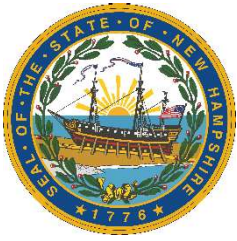
Recordings of all the Commission's hearings are available on its website: www.governor.nh.gov/accountability. In addition, members of the public submitted extensive written materials. Those are also available on the Commission's website.

i. Specific Recommendations Submitted by the Public

Members of the public made the following specific recommendations for improvements and reforms with respect to the reporting and investigation of police misconduct:

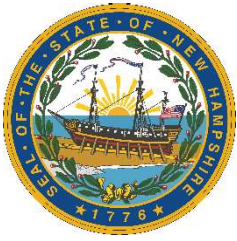
1. Make law enforcement personnel records public and require a retention period consistent with other municipality records.
2. Require full cooperation with public safety background investigations to including allowing breach of non-disclosure agreements.

⁹ "Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement." RSA 91-A:4(VI). "In any action against a governmental unit where the governmental unit has agreed to a settlement of such action, the complete terms of the settlement and the decree of the court judgment shall be available as a matter of public record pursuant to RSA 91-A." RSA 507:17(II).



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3. Establish a statewide civilian board to review all allegations of police misconduct, including all use of force, with the authority to issue punishment and publish findings.
4. Establish a statewide database to track problem officers and prevent fired officers from being re-hired.
5. Require every police shooting to be deemed justified or unjustified.
6. Require data collection and publication for all police encounters with demographics including race and ethnicity.
7. Require every law enforcement agency to have body and dash cameras with right to access the footage.
8. Require ethics training for law enforcement officers.
9. Eliminate qualified immunity and official immunity.
10. Require all prosecutors to receive implicit bias and racial profiling training.
11. Require prosecutors to report police misconduct and create Professional Code of Conduct rule mandating this.
12. Encourage prosecutors' offices to increase diversity of staff and create policies on dealing with racial profiling and police misconduct.
13. Require data collection and publication of charges, indictments, dismissals and decisions not to charge or indict with demographics including race and ethnicity.
14. Require publication of the cost of litigation and lawsuit settlement amounts involving law enforcement officers.
15. Require NH PSTC to re-evaluate its members' backgrounds.
16. Establish civilian oversight of officer-involved shootings.
17. Abolish the *Laurie* List/EES.
18. Make the *Laurie* List/EES public.
19. Create a culture of accountability in law enforcement.
20. Ban pre-textual stops.



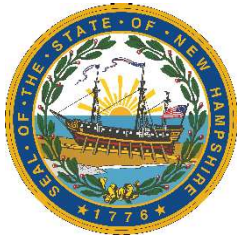
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21. Create a state cause of action for police violations of citizens' state constitutional civil rights, which eliminates qualified immunity as a defense.
22. Third-parties and organizations contracted to perform law enforcement responsibilities should be subject to statewide entity responsible for reporting, investigation, and punishing police misconduct.
23. Provide NH PSTC with additional staffing to conduct audits.
24. Explore the adaptation of current NH PSTC administrative rules to review cases more transparently.
25. The County Attorney should decide whether an officer's name is placed on the EES and oversee any internal investigation involving serious allegations against an officer.
26. The *Laurie* List/EES should contain separate categories for active, inactive, and decertified officers.
27. Law enforcement officer applications should include specific questions to determine if there were any issues with the applicant's prior employment.
28. Establish one unit at the Attorney General's Office to handle all allegations of criminal behavior by officers.
29. Enact legislation that creates a duty for officers to report police misconduct or dishonesty.
30. Ban the use of private cell phone communications by on-duty officers.
31. Law enforcement officers should carry their own liability insurance.
32. Use funds from the police retirement system to settle lawsuits against law enforcement agencies and officers.

c. Commission Recommendations

The Commission makes the following recommendations for reforms and improvements with respect to reporting and investigation of police misconduct:

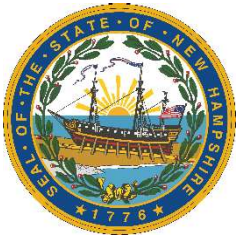
1. Support the establishment of a single, neutral and independent statewide entity to receive complaints alleging misconduct regarding all sworn and elected law enforcement officers **with the following components:**



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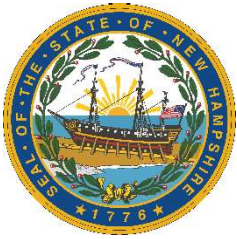
- a. Staffed by full-time attorneys, paralegals, legal assistants and investigators;
- b. Providing robust due process with multiple levels of review, including both sides having the right to appeal;
- c. Members of the various committees and panels to be appointed by the Governor, consisting of community members, current or retired judges, law enforcement officers, attorneys; 3 year terms (initially staggered). Any committee or panel would be slightly weighted toward law enforcement;
- d. Statewide, universal definition regarding what constitutes misconduct;¹⁰
- e. Notice of complaint to the officer and an opportunity to be heard;
- f. Initial screening of all complaints received by the entity to determine if an investigation is warranted;
- g. Investigation following consistent and defined standards;
- h. Statewide, universal standards to apply with respect to determination of whether misconduct occurred;
- i. Executive summary of finding to be made available to the public with the full investigative report subject to disclosure upon in-camera review. Sustained findings publicly accessible in a database maintained by the entity;
- j. Right of appeal to New Hampshire Supreme Court;
- k. Require all law enforcement agencies to report alleged misconduct to this entity; and
- l. Nothing in this recommendation would limit the ability of the hiring law enforcement agency or NH PSTC to investigate, discipline, or take any action consistent with their rules, regulations, and collective bargaining agreements; or would limit the ability of the Office of the Attorney General or County Attorney with jurisdiction to investigate or prosecute any criminal conduct.

¹⁰ Definition of misconduct should take into consideration the policy guidelines regarding Code of Conduct to be developed by NH PSTC. See ¶ II, c, II, 5.



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2. To promote a uniform approach to investigation and prosecution of alleged criminal conduct by government officials, including law enforcement officials, establish by statute a dedicated Public Integrity Unit within the Attorney General's Office with permanent and sustainable resources including full-time attorneys, paralegals, legal assistants, and investigators.
3. To promote equal justice under the law in all aspects of the criminal justice system, the Commission strongly encourages implicit bias and racial profiling training for all prosecutors, including all police prosecutors, all criminal defense attorneys, and all judges.
 - a. The Office of the Attorney General shall require such training for all attorneys, investigators, legal staff and victim/witness advocates in the Attorney General's Office; all County Attorney Offices; and all state agency attorneys.
 - b. The Office of the Attorney General shall facilitate and arrange for such trainings as described in 3(a) no later than April 1, 2021.
 - c. The Office of the Attorney General shall establish a system whereby all new prosecutor hires receive implicit bias and racial profiling training within thirty days of their start date.
 - d. Recommend the New Hampshire Supreme Court require one hour of yearly continuing legal education credits (CLEs) to be dedicated to implicit bias and racial profiling training.
4. Establish community outreach position within the Attorney General's Office to facilitate communication between all state, county and local prosecution offices and New Hampshire's diverse communities.
5. Amend RSA 33-A:3-a, CVIII to require "police, non-criminal-internal affairs investigations" to be retained, at a minimum, for a period of 20 years after retirement or separation.
6. Encourage all law enforcement agencies to use body and/or dash cameras.
7. Make the existing Exculpatory Evidence Schedule (EES) public subject to the following provisions:
 - a. The Office of the Attorney General will provide immediate written notice to all living persons on the current list that they are on the list with the following notifications that:



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- i. Six (6) months from date of notification to request a hearing in Superior Court to have his or her name removed from the EES.
 - ii. Six (6) months from date of notification, individual names on the list with a sustained finding shall be made public, except for any individual with a pending Superior or Supreme Court action in regard to removal from the EES.
- b. The names of deceased **individuals former law enforcement officers** shall be released once there has been a determination that the officer was afforded due process prior to placement on the list or the conduct subject to EES was previously provided as discovery in a criminal case.

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

Executive Order 2020-11 directs that the Commission shall examine: “[t]he current state of relationships between law enforcement and the communities they serve, and potential steps that can be taken to enhance these relationships.” Executive Order 2020-11, at ¶ 3. (c).

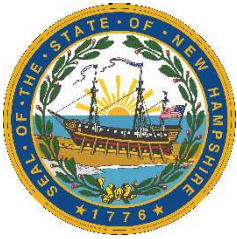
This section of the report describes the current state of relationships between New Hampshire law enforcement and the communities they serve; summarizes public testimony and recommendations on this subject; and sets forth the Commission’s recommendations with respect to improving relationships between law enforcement and the communities they serve.

a. Current State of Affairs

Community Policing

Law enforcement officers and citizens often interact with each other for a variety of reasons, not always related to criminal conduct and investigations. Relationships across New Hampshire between law enforcement and the communities they serve are as unique as the communities themselves. Each law enforcement agency is individually responsible for cultivating a relationship with the community it serves. In New Hampshire, there are no statewide standards, policies, or procedures that dictate how to cultivate a strong working relationship between law enforcement and individual communities.

There are a variety of programs promulgated by law enforcement agencies across New Hampshire designed to engage their communities and help foster strong relationships. The Commission received testimony about such programs including Police Athletic Leagues (PAL), self-defense courses taught by local law enforcement officers, drug take back programs, Touch a Truck, coffee with a cop, National Night Out, citizens academy, and police explorers or cadet



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(youth) academy. The extent of community engagement in and effectiveness of these programs is monitored at the local level by the agencies that provide such programs.

The variety of programming available in New Hampshire was illustrated by the testimony of Lieutenant Carlos Camacho of the Nashua Police Department, Captain Mark Newport of the Portsmouth Police Department, and Major John Marasco of New Hampshire State Police. Lieutenant Camacho, Captain Newport and Major Marasco testified before the Commission and provided written materials that are part of the record.

Lieutenant Camacho spoke at length about training titled “Effective Police Interaction with Youth.” All Nashua School Resources Officers complete this course with the goal of fostering more positive interactions with juveniles, both in and out of school. Additionally, Nashua School Resource Officers are certified and teach a Mirror Project class, which educates juveniles on how to interact with law enforcement officers.

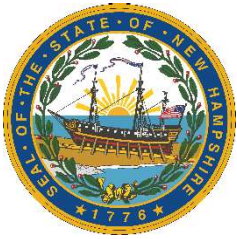
Numerous schools in New Hampshire have a School Resource Officer (SRO) embedded in the day-to-day activities of the school. Currently, in New Hampshire, there are no mandated classroom or field training programs for an officer to become an SRO. As with individual communities, each school that has an SRO also has unique needs and goals for working with that SRO.

Captain Newport attributed the positive relationship between the city of Portsmouth and its police department to constant engagement with the community with the goal of understanding its needs and requests. Portsmouth Police Department has an officer dedicated to community outreach whose goal is to foster positive relationships and collaborations with members of the community so that they view the presence of law enforcement officers as a comfort in times of need or stress. Captain Newport attributed Portsmouth Police Department’s success in this area to hiring the right candidates with the desired motive of wanting to help people. Portsmouth Police Commissioner Stefany Shaheen echoed Captain Newport’s testimony regarding the importance of community outreach in order for the community to feel that law enforcement is an ally.

Major Marasco attributed his agency’s positive relationship with members of the public to proactive community outreach through a variety of initiatives. Major Marasco explained that relationships with various communities were built one at a time, many with the goal of law enforcement and the communities understanding each other.

In addition to consistent community outreach, New Hampshire State Police implemented its Fair and Impartial Policing Policy in 2019.¹¹ When establishing this policy, State Police sought input from community stakeholders. Since its implementation, the policy has served as a model for other law enforcement agencies throughout the state.

¹¹ Discussed above at ¶ II, a, ii.



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There are also programs initiated by various community organizations. New Hampshire Blue and You is a project operated by New Hampshire Listens, which is a civic engagement initiative of the Carsey School of Public Policy at the University of New Hampshire. New Hampshire Blue and You provides an opportunity to connect residents with each other and their local law enforcement agencies in order to form a collaborative relationship geared towards improving the community.

Data Collection and Analysis

Presently, there is no standardized mechanism for quantifying the relationships between each community and law enforcement agency. Each law enforcement agency tracks interactions with members of the public utilizing a records management system, computer aided dispatch system, or other software of their choosing. Currently, law enforcement agencies are not required to collect demographic data, such as race and gender, for all interactions with members of the public. Any data that is collected is maintained locally. Currently, there is no statewide mechanism to collect, maintain or analyze data that is collected.

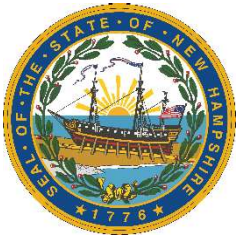
Law enforcement agencies are required to submit crime reports to the department of safety, division of state police. *See* RSA 106-B:14-c. Crime reports document, among other things, the race and ethnicity of the offender, arrestee, and victim involved in the case. If an individual is not identified as a victim, offender, or arrestee, then his/her race and ethnicity are not recorded. For these reports, race and ethnicity are defined by the Federal Bureau of Investigation's (FBI's) Criminal Justice Information Services' (CJIS) Uniform Crime Reporting (UCR) Program. Arrest reports are included within crime reports that are required to be submitted. Ethnicity is not recorded on eTickets or Fingerprinting LiveScans/ink cards. Race is an optional field for these documents.

New Hampshire law enforcement agencies are also responsible for receiving, tracking, investigating and responding to complaints and concerns from the communities they serve. There is no state-wide database to track complaints made to or against individual officers or agencies. As previously discussed, the degree to which law enforcement agencies are monitored varies; some law enforcement agencies are accountable to police commissions while others are monitored by their respective municipalities.¹²

b. Summary of Public Testimony

In addition to the information witnesses discussed above, the Commission heard testimony from two members of the public on August 10, 2020. Other individuals submitted written testimony. The Commission received testimony on the topic of relationships between law enforcement and the communities they serve throughout the entirety of its work. Several themes repeated throughout the discussion of community relations. These included the need and

¹² Discussed above at ¶ III, a.



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

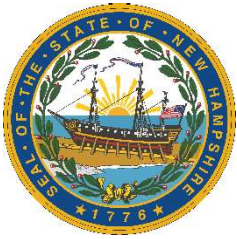
function of SROs and the criminalization of juvenile behavior; legalizing marijuana and making simple possession of any drug a misdemeanor as opposed to a felony; and the collection and analysis of demographic data.

Recordings of all of the Commission's hearings are available on its website: www.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 relationships between law enforcement and the communities they serve:

1. Law enforcement agencies should provide periodic updates/reports to inform the community of the agencies' activities and ongoing efforts.
2. Create and employ alternatives to law enforcement responding to and dealing with non-criminal matters such as mental health crises and substance abuse.
3. Legalize cannabis/marijuana.
4. Decriminalize all drugs.
5. Adopt fair and impartial policing type policies and communicate those policies to the community.
6. Re-allocate resources from law enforcement officers in schools to counselors and social workers for children.
7. Provide opportunities for members of the public to communicate and have positive interactions with law enforcement officers.
8. Law enforcement agencies should initiate conversations with members of their communities in an effort for each side to learn about and understand the other in order to improve the relationship.
9. Remove SROs from schools.
10. Better define the role of SROs and mandate specialized training.
11. Provide more funding to law enforcement agencies that have an officer designated to community policing.



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12. Children ages 12 and under should not face criminal prosecution.
13. Simple possession of every drug should always be misdemeanor.
14. Require data collection of demographics for all interactions between law enforcement agencies and any member of the public.
15. Training on the topic of respectful interactions with trans and gender non-conforming (TGNC) population and pronoun inclusion.
16. Increase training in order to improve the relationship between law enforcement agencies and the hearing-impaired community.

c. Commission Recommendations

The Commission makes the following recommendations for reforms and improvements with respect to the current state of relationships between law enforcement and the communities they serve:

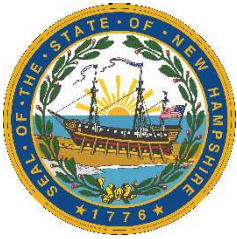
I. Data Collection

1. All law enforcement agencies should gather, analyze and make available to the public, at least annually, data on demographics (including, at a minimum, gender and race) for arrests, citations and motor vehicle and subject stops regardless of disposition.
2. New Hampshire Department of Motor Vehicles should include a person's race on NH Drivers' Licenses and Non-Drivers' Identification Cards, with the option for the person to opt out from answering the question.
3. All law enforcement agencies will comply with RSA 106-B:14-c by submitting crime reports to the Department of Safety, Division of State Police based on the specifications prescribed by the Federal Bureau of Investigation (FBI).

II. Community Policing and Engagement

4. All law enforcement agencies should adopt the definition of Community Policing as set forth by International Association of Chiefs of Police (IACP):

“Community policing is a comprehensive philosophy that guides policy and strategy aimed at achieving more effective and efficient crime control, reduced fear of crime, improved quality of life, and improved police services and police legitimacy through a proactive reliance on community resources that seeks to change crime



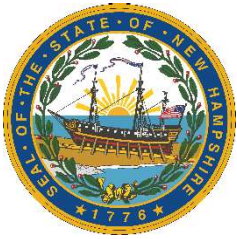
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causing conditions. This assumes a need for greater accountability of police, elected community leaders, and the community in general, along with greater public share in decision-making through the identification of service needs and priorities and a greater concern for civil rights and liberties.”

5. Encourage **all** law enforcement agencies, when practicable, to dedicate an officer or unit to community policing and engagement.
6. Encourage **all** law enforcement agencies to engage in community relationship building by working collaboratively with community liaisons, public agencies, non-profits, community stakeholders and existing community-based programs. Models like New Hampshire Blue and You, the Mirror Project, Police Athletic Leagues (PALs), and citizen police academies serve as a guide for such efforts.
7. **All** law enforcement agencies should establish ongoing officer training at all levels to encourage a culture that empowers individual officers to engage in community policing and relationship building efforts.
8. **All** law enforcement agencies should publish/advertise community events and consider the use of social media and the establishment of Public Service Announcement (PSA) campaigns to educate the public about police **officers and their work**.
9. NH PSTC should maintain and publish a list of all currently **CALEA** accredited law enforcement agencies **in New Hampshire**.

III. School Resource Officers

10. NH PSTC should set forth mandated “certification” for SROs that would require the officer to complete National Association of School Resource Officers (NASRO) training, Mirror Project Train-the-Trainer and Effective Police Contact with Youth training prior to assignment. Further, certain annual in-service hours to maintain SRO “certification” should be identified and mandated by NH PSTC.
11. NH PSTC should work with stakeholders and oversee the development of a model SRO Memorandum of Understanding (MOU) to be used by police departments and **School Administrative Units** (SAUs) that clearly defines the roles, expectations and prohibitions of how the SRO will work in the school setting and specifically with regard to the SRO’s role in student discipline for non-criminal matters.
12. Each **department law enforcement agency** should have a field training program specifically for SROs. A transition plan should be implemented over a course of



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weeks/months between each outgoing/incoming SRO so there is overlap, information exchange, and adjustment for the stakeholders.

13. MOUs between law enforcement agencies and ~~school districts~~ SAUs should be made public.

IV. Hiring/Recruitment of Officers

14. Recognizing the difficulty of hiring and recruiting qualified candidates, law enforcement agencies should continue efforts to recruit officers from minority communities to allow for a diverse law enforcement workforce.
15. All public entities should develop a comprehensive strategy to actively attract, recruit, and retain diverse law enforcement candidates, to include ~~looking~~ candidates from outside New Hampshire.

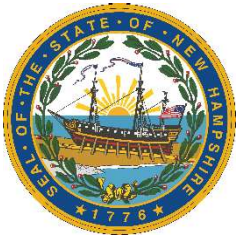
V. Other

16. In order to advance relationships with the trans and gender non-conforming population, all law enforcement agencies should seek and provide training on pronoun inclusion.
17. In order to advance relationships with the deaf and hard of hearing community, law enforcement agencies should continue to seek a better understanding of, and communication with, members of that community, to include the greater use and dissemination of driver visor cards by law enforcement.
18. In order to advance a greater understanding of juvenile offenders, form a separate commission to review the present state of juvenile justice laws. In particular, the commission should review the minimum age for juvenile prosecutions and the statute that creates a presumption of transfer to the adult criminal court.

V. Other Subject Matters Considered by the Commission

Executive Order 2020-11 directs that the Commission shall examine any “subject matter which the Commission deems relevant to the overall mission of enhancing transparency, accountability, and community relations in law enforcement.” Executive Order 2020-11, at ¶ 3 (d).

As Director Scippa testified, in February 2019 the Office of the Legislative Budget Assistant conducted a Performance Audit of NH PSTC. The audit resulted in 16 recommendations for improvements, 14 of which NH PSTC wholly concurred in and two of which NH PSTC partially concurred in. Director John Scippa repeatedly spoke of NH PSTC’s



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desire to comply with the recommendations and the funding needed for such compliance. A copy of the audit appears at Appendix E.

Over the course of its work, the Commission heard testimony from Kenneth Norton, Executive Director of the New Hampshire Chapter of the National Alliance on Mental Illness, and others who highlighted that mental illness is a facet of many interactions between law enforcement officers and individuals. Director Norton is a member of this Commission. He submitted written testimony which is part of the record. Law enforcement officers are often called upon to deal with issues stemming from mental health and/or substance use because the individual requesting help has no other available resources. Law enforcement officers are not trained as mental health professionals and are often not equipped to handle such volatile situations.

The Commission also discussed the topic of law enforcement officers' mental well-being and its impact on an officer's ability to effectively carry out his or her duties. Law enforcement officers respond to and are exposed to traumatic events on a regular basis often with little to no time to process one tragic event before being sent to another incident. Police suicides are more widely discussed now, but for many years, and still for many officers, the topic of mental health issues was taboo in law enforcement.

a. Summary of Public Testimony Received by the Commission

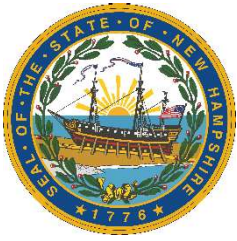
In addition to the witnesses discussed above, the Commission heard from one member of the public on August 28, 2020, who did not address a matter relevant to the Commission's mission.

Recordings of all of the Commission's hearings are available on its website: www.governor.nh.gov/accountability.

b. Commission Recommendations

The Commission makes the following recommendations for reforms and improvements with respect to mental health and well-being and the results of the February 2019 Office of Legislative Budget Assistant NH PSTC Performance Audit.

1. Specially trained mental health professionals should be embedded in tactical response teams. There should be a review to determine if such mental health professionals will be afforded protection from litigation stemming from their participation in such activities.
2. Encourage partnerships between communities and local law enforcement to pursue services and resources dedicated to individuals with substance use disorders (SUDs) and mental illness and to make those services readily available



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in order to reduce the burden on law enforcement responding to issues stemming from SUDs as well as mental illness.

3. Endorse the findings and recommendations of the February 2019 Office of Legislative Budget Assistant NH PSTC Performance Audit and ensure that sufficient funding is allocated to implement and sustain the recommendations.
4. Offer training regarding the mental well-being of law enforcement officers. Training should include information regarding the high rates of post-traumatic stress, depression and suicide among law enforcement officers and available resources for seeking help. Enhance the availability and encourage the continued collaboration of law enforcement peer support programs in the state.
5. NH PSTC should explore the issue of requiring mandatory periodic psychological screenings of law enforcement officers, similar to what is currently required for physical fitness under Pol 404.07, to determine ongoing fitness for duty and/or assist with referring officers for mental health treatment/support.
6. The University of New Hampshire and other higher education institutions within New Hampshire are encouraged to collaborate with NH PSTC to develop specialized curriculum and/or graduate/post graduate certificate programs dedicated:
 - a. To mental health providers who collaborate with law enforcement officers in responding to individuals experiencing a mental health crisis in order to respond more effectively to critical incidents involving individuals who are a danger to themselves or others.
 - b. To address the special mental health needs of law enforcement officers/first responders including, trauma, depression, and substance misuse, in order to enhance the skills, understanding, and availability of licensed mental health professionals in New Hampshire who can provide treatment/support and collaborate with our law enforcement community.
7. In order to enhance transparency, accountability, and community relations between law enforcement and the people they serve, the Commission strongly encourages the Governor and the legislature to allocate or re-allocate appropriate funding needed to implement and sustain the recommendations made by this Commission. Stakeholders are encouraged to advocate for their funding needs before House Finance Committee or their local funding body.
8. Extend, as needed, this Commission to assist with implementation of any recommendation.



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VI. Conclusion

For the past ten weeks Commission members worked diligently to address the concerns of this state, in the wake of the murder of George Floyd, and the ensuing discussions regarding New Hampshire's obligation to engage in self-examination to identify all available opportunities to improve relationships between law enforcement and the communities they serve. Each Commission member accepted this appointment with passion and with the goal of addressing issues facing our state and country. Commission members contributed varied positions and views resulting in robust discussion on and debate of the subjects detailed in this report. The unanimous conclusions and recommendations in this report are the result of these thoughtful discussions and debates.

While there was an overwhelming acknowledgement that the men and women who serve as law enforcement officers in New Hampshire are the epitome of professionalism and self-sacrifice, there was also the acknowledgement of recommendations needed to improve the profession of law enforcement, both for the officers and the people of this state. There was likewise unequivocal agreement that law enforcement has no room or tolerance for officers who engage in unethical, abusive, or oppressive conduct. There was no stronger voice for this sentiment than those in law enforcement who strive each and every day to do the best job possible.

The 48 recommendations made by the Commission resulted from listening to subject-matter expert and public testimony; reviewing written testimony and materials; relying on each Commissioner's common sense and lived experiences, as well as discussions between Commission members during hours of discussion – with some discussions being very spirited. While the Commission members did not always agree on recommendations or proposed recommendations, all agreed that in order to effect meaningful change the Commission needed to speak with one voice. The diverse Commission members accomplished this task by listening to each other, by understanding that every Commission member's opinion was important and by understanding that, in some instances by compromising, a better recommendation was produced.

It was an honor for each member to serve on this Commission, and it is the Commission members' sincere hope that with the implementation of these recommendations, New Hampshire will be an even better and safer place for all people including law enforcement officers.

In closing, the Commission members thank Fallon Reed and Maria Eklund from Homeland Security and Emergency Management at the New Hampshire Department of Safety, and Assistant Attorney General Nicole Clay, Annie Gagne and Kim Schmidt from the Office of the Attorney General for all of their work in facilitating every aspect of our meetings.

Per Executive Order 2020-11, this report and recommendations will be submitted to the Governor, the Speaker of the House and the President of the Senate.



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

Respectfully submitted,

Jane E. Young, Chair
Deputy Attorney General

Robert Quinn
Commissioner, Department of Safety

Ahni Malachi
Executive Director, New Hampshire
Commission for Human Rights

Rogers Johnson
Chair, Governor's Advisory Council on
Diversity and Inclusion

Sawako Gardner
Justice of the New Hampshire Circuit Court

Chief Charlie Dennis
New Hampshire Association of Chiefs of
Police

Joseph Lascaze
Smart Justice Organizer, American Civil
Liberties Union of New Hampshire
Chief Eddie Edwards (Ret.)
Public Member

James T. McKim
President of the Manchester, NH NAACP

Lieutenant Mark Morrison
New Hampshire Police Association

Kenneth Norton
Executive Director, New Hampshire Chapter
of the National Alliance on Mental Illness
Julian Jefferson, Esq.
Criminal Defense Representative

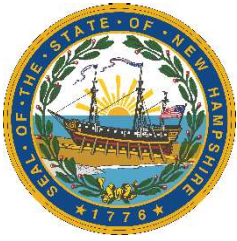
Ronelle Tshiela
Public Member and Co-Founder, Black Lives
Matter

Dated: August 31, 2020



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

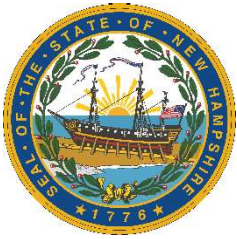
**COMPILATION OF COMMISSION
RECOMMENDATIONS**



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

Recommendations Regarding Current State Of Training Curriculum, Procedures And Policies:

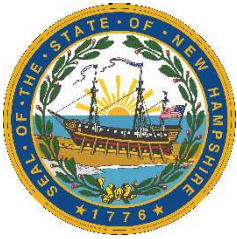
1. As soon as practicable, NH PSTC, with input from all relevant law enforcement agencies, should pursue all actions necessary, including emergency rulemaking pursuant to RSA 541-A, to amend existing administrative rules to provide as follows:
 - a. Increase the mandatory number of hours of annual in-service 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;
 - ii. Ethics; and
 - iii. De-escalation.
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.
3. NH PSTC should conduct a Job Task Analysis (JTA) 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 his/her 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 officers 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.



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(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.
 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 Georgetown University's Active Bystandership Law Enforcement (ABLE) training, (formally known as EPIC training) or similar training.
 12. NH PSTC should include **in its instruction** *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.



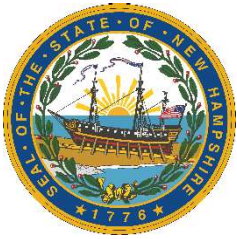
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13. Recognizing that certain NH police agencies need to rely on part time law enforcement officers, NH PSTC should re-evaluate the Part Time Police Officer certification process upon receipt of the **Job Task Analysis JTA** and consider extending the 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 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 toward 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.
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.

Recommendations Regarding Reporting And Investigation Of Police Misconduct:

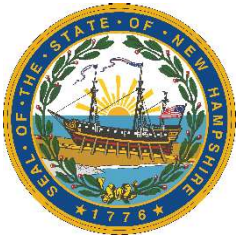
16. Support the establishment of a single, neutral and independent statewide entity to receive complaints alleging misconduct regarding all sworn and elected law enforcement officers:
 - a. Staffed by full-time attorneys, paralegals, legal assistants and investigators;
 - b. Provide robust due process with multiple levels of review, including both sides having the right to appeal;
 - c. Members of the various committees and panels to be appointed by the Governor, consisting of community members, current or retired judges, law enforcement officers, attorneys; 3 year terms (initially staggered). Any committee or panel would be slightly weighted toward law enforcement;
 - d. Statewide, universal definition regarding what constitutes misconduct;¹³

¹³ Definition of misconduct should take into consideration the policy guidelines regarding Code of Conduct to be developed by NH PSTC. See ¶ II, c, II, 5.



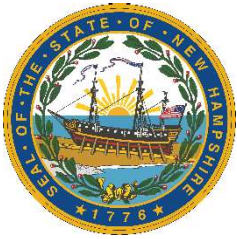
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- e. Notice of complaint to the officer and an opportunity to be heard;
 - f. Initial screening of all complaints received by the entity to determine if an investigation is warranted;
 - g. Investigation following consistent and defined standards;
 - h. Statewide, universal standards to apply with respect to determination of whether misconduct occurred;
 - i. Executive summary of finding to be made available to the public with the full investigative report subject to disclosure upon in-camera review. Sustained findings publicly accessible in a database maintained by the entity;
 - j. Right of appeal to New Hampshire Supreme Court;
 - k. Nothing in this recommendation would limit the ability of the hiring law enforcement agency or NH PSTC to investigate, discipline, or take any action consistent with their rules, regulations, and collective bargaining agreements; or would limit the ability of the Office of the Attorney General or County Attorney with jurisdiction to investigate or prosecute any criminal conduct; and
 - l. Require all law enforcement agencies to report alleged misconduct to this entity.
17. To promote a uniform approach to investigation and prosecution of alleged criminal conduct by government officials, including law enforcement officials, establish by statute a dedicated Public Integrity Unit within the Attorney General's Office with permanent and sustainable resources including full-time attorneys, paralegals, legal assistants, and investigators.
18. To promote equal justice under the law in all aspects of the criminal justice system, the Commission strongly encourages implicit bias and racial profiling training for all prosecutors, including all police prosecutors, all criminal defense attorneys, and all judges.
- a. The Office of the Attorney General shall require such training for all attorneys, investigators, legal staff and victim/witness advocates in the Attorney General's Office; all County Attorney Offices; and all state agency attorneys.



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- b. The Office of the Attorney General shall facilitate and arrange for such trainings as described in 3(a) no later than April 1, 2021.
 - c. The Office of the Attorney General shall establish a system whereby all new prosecutor hires receive implicit bias and racial profiling training within thirty days of their start date.
 - d. Recommend the New Hampshire Supreme Court require one hour of yearly continuing legal education credits (CLEs) to be dedicated to implicit bias and racial profiling training.
19. Establish community outreach position within the Attorney General's Office to facilitate communication between all state, county and local prosecution offices and New Hampshire's diverse communities.
20. Amend RSA 33-A:3-a, CVIII to require "police, non-criminal-internal affairs investigations" to be retained, at a minimum, for a period of 20 years after retirement or separation.
21. Encourage all law enforcement agencies to use body and/or dash cameras.
22. Make the existing Exculpatory Evidence Schedule (EES) public subject to the following provisions:
- a. The Office of the Attorney General will provide immediate written notice to all living persons on the current list that they are on the list with the following notifications that:
 - i. Six (6) months from date of notification to request a hearing in Superior Court to have his or her name removed from the EES.
 - ii. Six (6) months from date of notification, individual names on the list with a sustained finding shall be made public, except for any individual with a pending Superior or Supreme Court action in regard to removal from the EES.
 - b. The names of deceased individuals former law enforcement officers shall be released once there has been a determination that the officer was afforded due process prior to placement on the list or the conduct subject to EES was previously provided as discovery in a criminal case.



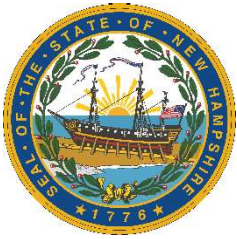
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Recommendations Regarding Current State Of Relations Between Law Enforcement And The Communities They Serve:

23. All law enforcement agencies should gather, analyze and make available to the public, at least annually, data on demographics (including, at a minimum, gender and race) for arrests, citations and motor vehicle and subject stops regardless of disposition.
24. New Hampshire Department of Motor Vehicles should include a person's race on NH Drivers' Licenses and Non-Drivers' Identification Cards, with the option for the person to opt out from answering the question.
25. All law enforcement agencies will comply with RSA 106-B:14-c by submitting crime reports to the Department of Safety, Division of State Police based on the specifications prescribed by the Federal Bureau of Investigation (FBI).
26. All law enforcement agencies should adopt the definition of Community Policing as set forth by International Association of Chiefs of Police (IACP):

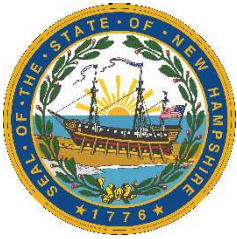
“Community policing is a comprehensive philosophy that guides policy and strategy aimed at achieving more effective and efficient crime control, reduced fear of crime, improved quality of life, and improved police services and police legitimacy through a proactive reliance on community resources that seeks to change crime causing conditions. This assumes a need for greater accountability of police, elected community leaders, and the community in general, along with greater public share in decision-making through the identification of service needs and priorities and a greater concern for civil rights and liberties.”

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29. All law enforcement agencies should establish ongoing officer training at all levels to encourage a culture that empowers individual officers to engage in community policing and relationship building efforts.



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30. All law enforcement agencies should publish/advertise community events and consider the use of social media and the establishment of Public Service Announcement (PSA) campaigns to educate the public about police officers and their work.
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34. Each department law enforcement agency should have a field training program specifically for SROs. A transition plan should be implemented over a course of weeks/months between each outgoing/incoming SRO so there is overlap, information exchange, and adjustment for the stakeholders.
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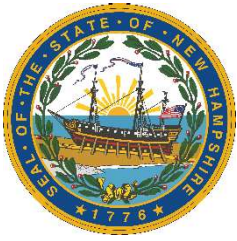
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40. In order to advance a greater understanding of juvenile offenders, form a separate commission to review the present state of juvenile justice laws. In particular, the commission should review the minimum age for juvenile prosecutions and the statute that creates a presumption of transfer to the adult criminal court.

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42. Encourage partnerships between communities and local law enforcement to pursue services and resources dedicated to individuals with substance use disorders (SUDs) and mental illness and to make those services readily available in order to reduce the burden on law enforcement responding to issues stemming from SUDs as well as mental illness.
43. Endorse the findings and recommendations of the February 2019 Office of Legislative Budget Assistant NH PSTC Performance Audit and ensure that sufficient funding is allocated to implement and sustain the recommendations.
44. Offer training regarding the mental well-being of law enforcement officers. Training should include information regarding the high rates of post-traumatic stress, depression and suicide among law enforcement officers and available resources for seeking help. Enhance the availability and encourage the continued collaboration of law enforcement peer support programs in the state.
45. NH PSTC should explore the issue of requiring mandatory periodic psychological screenings of law enforcement officers, similar to what is currently required for physical fitness under Pol 404.07, to determine ongoing fitness for duty and/or assist with referring officers for mental health treatment/support.
46. The University of New Hampshire and other higher education institutions within New Hampshire are encouraged to collaborate with NH PSTC to develop specialized curriculum and/or graduate/post graduate certificate programs dedicated:
 - a. To mental health providers who collaborate with law enforcement officers in responding to individuals experiencing a mental health crisis in order to respond more effectively to critical incidents involving individuals who are a danger to themselves or others.



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

- b. To address the special mental health needs of law enforcement officers/first responders including, trauma, depression, and substance misuse, in order to enhance the skills, understanding, and availability of licensed mental health professionals in New Hampshire who can provide treatment/support and collaborate with our law enforcement community.
- 47. In order to enhance transparency, accountability, and community relations between law enforcement and the people they serve, the Commission strongly encourages the Governor and the legislature to allocate or re-allocate appropriate funding needed to implement and sustain the recommendations made by this Commission. Stakeholders are encouraged to advocate for their funding needs before House Finance Committee or their local funding body.
- 48. Extend, as needed, this Commission to assist with implementation of any recommendation.



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

APPENDIX A



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

APPENDIX B



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

APPENDIX C



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

APPENDIX D



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

APPENDIX E

**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

**PERFORMANCE AUDIT
FEBRUARY 2019**



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To The Fiscal Committee Of The General Court:

We conducted a performance audit of the Police Standards and Training Council (PSTC) to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee. We conducted this audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. The evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The purpose of the audit was to determine whether the PSTC operated efficiently and effectively during State fiscal years 2017 and 2018.

Office of Legislative Budget Assistant

Office Of Legislative Budget Assistant

February 2019

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ABBREVIATIONS

CALEA	Commission On Accreditation For Law Enforcement Agencies
CCSNH	Community College System Of New Hampshire
Committee	Corrections Advisory Committee
Cooper	Cooper Institute For Aerobic Research
EES	Exculpatory Evidence Schedule
DAS	Department Of Administrative Services
DOJ	Department Of Justice
IADLEST	International Association Of Directors Of Law Enforcement Standards And Training
NHAC	New Hampshire Association Of Counties
PSTC	Police Standards And Training Council
SFY	State Fiscal Year

**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

EXECUTIVE SUMMARY

The Police Standards and Training Council (PSTC) had a dual mission of training law enforcement officers and ensuring officers achieved and maintained standards. We surveyed law enforcement hiring authorities and found 85.1 percent of the respondents were satisfied with the training recruits received. Additionally, we found training operations and policies generally aligned with industry standards. While we found the PSTC was generally efficient and effective, we found several areas of PSTC operations in need of improvement.

The PSTC was tasked with enforcing statutory standards and further developing the minimum standards of law enforcement officers. The PSTC implemented these directives using a series of applications, affidavits, and administrative processes. However, these procedures omitted crucial standards required by statute, such as drug and psychological screenings. Documentation demonstrating compliance with PSTC standards was inconsistently completed by law enforcement hiring authorities, was inefficiently collected, and went largely unaudited by the PSTC.

Although the complaint and disciplinary processes were generally effective at ensuring most officers participating in egregious misconduct would be identified and disciplined, the processes contained gaps in jurisdictional authority and reporting mechanisms. For example, law enforcement agencies could suspend an officer for a long period of time for dishonesty or disrespecting the law but these specific instances of misconduct would never come before the PSTC unless the officer was discharged, involved in a criminal matter, or found to have possessed or used a controlled substance.

While we note training operations produced generally positive survey results from graduates and hiring authorities, we found the curriculum development processes lacked assurance that recent curriculum decisions were made effectively based on a current job task analysis. Additionally, inconsistent management of instructors resulted in the inefficient use of instructional resources by allocating PSTC staff time to monitor non-PSTC instructors.

We also found the overall management of PSTC operations was hindered by lack of a fully developed strategic plan, performance and risk management systems, and a less than fully functional electronic database. We found this potentially limited the PSTC's ability to monitor and measure organizational performance and risk. Inefficient information systems burdened both the PSTC staff and law enforcement agencies with additional administrative tasks.

As a public regulatory body, the PSTC was also required to conduct transparent meetings, free of conflict, with proper statutory authority. Nevertheless, we found some meetings lacked quorum due to noncompliance with financial disclosure requirements and used inconsistent recusal practices. Lastly, the PSTC frequently conducted disciplinary hearings in non-public session under questionable and inconsistent authority which may require further consideration by the Legislature and more explicit guidance from the Department of Justice.

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**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
1	14	Yes	Ensure all State-employed law enforcement officers are screened; ensure all officers employed by political subdivisions are appropriately screened according to whether the subdivision has funds budgeted for such testing; develop rules to describe acceptable psychological and drug screening tests; and develop methods to ensure local hiring authorities either conducted required testing or demonstrated exemption. The Legislature may wish to consider whether the two different standards for law enforcement officers is acceptable.	Concur
2	16	No	Improve forms to ensure the application and certification processes are efficient and collect all the required information. Ensure all the forms are complete upon receipt.	Concur
3	18	No	Develop policies and procedures defining the Police Standards and Training Council (PSTC) audit function and ensure they are conducted.	Concur
4	21	No	Improve the complaint and disciplinary processes by: 1) increasing authority in administrative rule to allow for the disciplining of non-terminated officers and officers found not-guilty of criminal offenses; and, 2) develop mechanisms and procedures to ensure unreported criminal misconduct is addressed.	Concur In Part

Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
5	24	No	Improve policies and practices to ensure the consistent management of instructors by: 1) developing credential verification and instructor approval processes, 2) setting a minimum level of instructor training required, and 3) reducing the level of monitoring activities of non-PSTC instructors.	Concur
6	26	No	Ensure an updated job task analysis is completed and the results integrated into the curriculum.	Concur
7	29	No	Complete a comprehensive strategic plan and design performance measures to achieve goals and objectives.	Concur
8	30	No	Work with the Department of Information Technology to reengineer its processes for efficiency and identify or develop suitable software to assist the PSTC in achieving its primary responsibilities efficiently.	Concur
9	32	No	Fully implement a risk management policy which includes a comprehensive written risk assessment.	Concur
10	33	No	Improve administrative rules by ensuring: 1) rules are consistent with statute, 2) updated timely, and 3) all forms requiring information from external parties are properly adopted.	Concur
11	35	No	Explore opportunities to combine maintenance services with Department of Administrative Services and report to the Legislature.	Concur
12	37	No	Adopt rules defining the approval and oversight of the county corrections academy curriculum.	Concur In Part

Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
13	39	Yes	Work with Department of Justice to develop policies and procedures to ensure proper authority is cited when entering into non-public session for the frequent scenarios before the PSTC. The Legislature may wish to clarify whether exemption from a public setting under RSA 91-A:3, II(a) is for the protection of any public employee before any public body or whether an employer-employee relationship is required.	Concur
14	41	Yes	We recommend the PSTC develop policies and procedures to: 1) ensure compliance with the financial disclosure statute; 2) ensure only eligible members are conducting PSTC business. We also suggest the Legislature consider revising RSA 15-A.	Concur
15	42	No	Formally adopt recusal practices by defining potential conflicts of interest for PSTC members in policy and determining when a recusal from the meeting or abstention from voting is the appropriate remedy to avoid a potential conflict.	Concur
16	43	No	Develop policies and procedures to ensure the Corrections Advisory Committee consistently complies with statute.	Concur

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**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

BACKGROUND

In 1971, the Police Standards and Training Council (PSTC) was created by the New Hampshire General Court to establish minimum hiring and educational standards for most sworn law enforcement personnel within the State. The PSTC trained and certified all State and local police officers, probation-parole officers, and State corrections officers. County corrections officers were exempt from PSTC certification and training requirements, but the PSTC maintained oversight responsibility over the county corrections training curriculum.

Training

The PSTC operated three different training academies during the year; the full-time police academy, the part-time police academy, and the corrections academy. The full-time police academy and the corrections academy were each offered three times per year. The part-time police academy was offered two or three times per year, depending on need. In addition, probation-parole officers first attended the corrections academy and then attended a portion of the full-time police academy to become certified probation-parole officers.

During the audit period, full-time police officers attending the PSTC academy received 16 weeks of training and education at the PSTC facility in Concord, while State corrections officers received nine weeks. Police officers seeking part-time certification were provided 200 hours of training and education over the course of 14 weeks before becoming certified and are not permitted to work more than 1,300 hours per year. Law enforcement officers were able to have the requirement to attend an academy waived by the PSTC if they demonstrate they received adequate prior training from another program.

Certification

Certified officers were required to receive ongoing annual training and, if hired as an officer after the year 2000, pass a physical fitness test every three years. Certification may be suspended or revoked by the PSTC for violating laws or PSTC administrative rules. Certification lapses occurred when an officer was separated from a law enforcement agency for more than three years if the separation was due to an involuntary lay-off or 30 days for all other separations of employment.

The PSTC was responsible for regulating 4,305 individual law enforcement officers from a variety of law enforcement agencies holding 4,740 positions (Table 1).

Table 1

**Number Of Certified Law Enforcement Officers By Agency,
As Of July 2018**

Law Enforcement Agency	Number Of Law Enforcement Officers¹
Municipalities	3,199
Department Of Corrections	508
Counties	412
State Police	359
Fish And Game Commission	54
Marine Patrol	50
State Universities	45
United States Customs And Border Protection	23
Liquor Commission	22
Fire Marshal	17
Department Of Justice	15
Police Standards and Training Council	13
Department Of Natural And Cultural Resources	12
Other	11
Total	4,740
Note: ¹ Represents the number of certified officers employed by the various law enforcement agencies. Some officers are employed by multiple jurisdictions.	
Source: LBA analysis of unaudited PSTC data.	

Council Oversight

The 14 member Council oversaw PSTC operations through a Director and decided whether prior training and experience qualified for certifications, and presided over multiple hearings each year involving certification suspensions and revocations. The PSTC was empowered to subpoena and examine witnesses under oath, take oaths or affirmations, and reduce to writing testimony given at any hearing. Additionally, the PSTC was also authorized to adopt rules and monitor police departments within the State through required submission of reports.

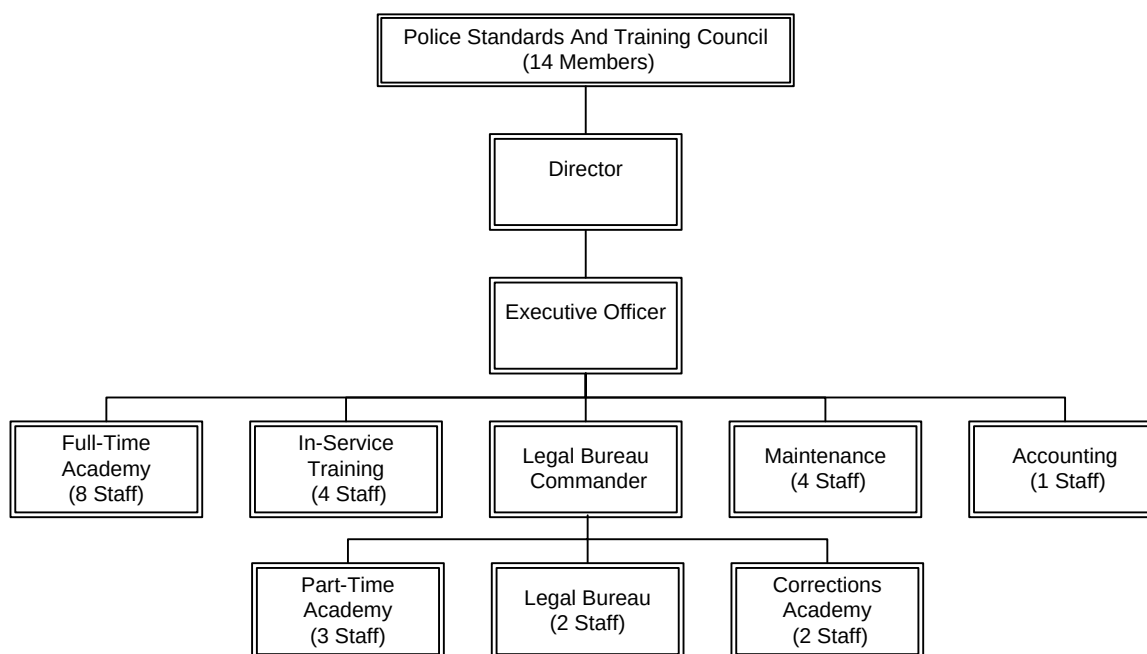
Organizational Structure And Staffing

Operations at the PSTC were overseen by a Director appointed to a four-year term by the PSTC. As of May 2018, operations consisted of 26 employees and were organized into seven different functions, including: full-time academy, part-time academy, corrections academy, in-service training, legal, maintenance, and accounting as shown in Figure 1. The PSTC had experienced some turnover of middle management during the audit period and underwent a slight

organizational restructure, which consolidated some responsibilities of middle management into a newly created Executive Officer position. Additionally, the PSTC was administratively removed from the Community College System Of New Hampshire at the beginning of the audit period.

Figure 1

PSTC Organizational Structure As Of May 2018



Source: LBA analysis of PSTC organizational chart.

Major PSTC divisions include:

- *Full-Time Academy:* The Full-Time Academy was led by a Law Enforcement Training Specialist II, known as the Commandant, with assistance from an Assistant Commandant. In addition to the Commandants, five Law Enforcement Specialists provided training, while outside instructors from other State agencies and stakeholder organizations supplemented specialized areas of instruction. Additionally, the administrative work of the Full-Time Academy was supported by a program assistant.
- *In-service Training:* The in-service training function was comprised of one instructor, one firearms range supervisor, a program assistant, and a part-time training coordinator who administered the online training systems. Officers were required to maintain annual in-service training in areas such as firearms, deadly and non-deadly force, and an additional eight hours in continuing education required by the PSTC.

- *Legal Bureau:* This bureau consisted of a Commander, paralegal, and a program assistant. Staff assisted the Commander with preparation for PSTC meetings and monitoring compliance with PSTC standards. The Commander also oversaw the Part-Time and Corrections Academies. Each of these academies was led by a part-time Law Enforcement Specialist I (known as Commandants). The Part-Time Academy was staffed with one part-time personnel. The Corrections Academy was staffed by a full-time program assistant and relied on two Department of Corrections' employees as supplemental instructors. Academy responsibilities included enrolling recruits, developing and updating lesson plans, administering tests, and hosting a graduation ceremony.
- *Maintenance:* The maintenance crew at the PSTC was comprised of two building service workers who cleaned and repaired the facility, one mechanic, and one plant maintenance engineer who managed the staff. In addition to the general upkeep of the PSTC campus and equipment, the PSTC provided State vehicle inspections for the PSTC's 13 vehicles and one trailer.
- *Accounting:* One accounting staff performed all clerical financial tasks and received direct oversight and approval of financial functions from the Executive Officer.

In addition to hired staff, the PSTC relied on several volunteers, private contractors, and "cadres" to supplement the training workload. The cadre positions were certified officers from law enforcement agencies who provided mentorship to recruits and assisted the PSTC training staff. The Department of Corrections and State Police voluntarily provided cadres to their corresponding academies and one local law enforcement agency was selected and compensated for providing a cadre.

Fiscal Operations

On July 1, 2016, the Legislature changed the PSTC's funding to 100 percent General Funds instead of relying on a court-imposed penalty assessment for revenue. The penalty assessment revenue formerly deposited into a PSTC fund was now directed to the General Fund. The change in the funding structure had reportedly improved the consistency in the funding of operations.

As illustrated in Table 2, the PSTC spent approximately \$3.3 million a year on operations during the audit period. About two-thirds of expenses were for personnel costs. Major non-personnel expenses included expenses associated with the maintenance and operations of the PSTC training facility. Additionally, another major expense was the food service contract to feed the recruits and in-service officers receiving training. One of the main increases in revenue and expenses from State fiscal years (SFY) 2017 to 2018 involved the purchase of a State grant funded driving simulator. However, other expenses remained relatively stable or decreased during the audit period. The biggest reduction in expenditures was due to the final bond obligation payment ending a bond obligation for the PSTC tactical center in SFY 2017.

Table 2

**PSTC Revenues And Expenditures,
SFYs 2017-2018
(In Thousands)**

	2017	2018
<u>Revenues</u>		
Agency Income	4	108
Revolving Funds ¹	37	0
Total Revenues	\$41	\$108
<u>Operating Expenditures</u>		
Personnel & Benefits	\$2,260	\$2,244
Equipment and Maintenance	208	370
Food Institutions	304	319
Training of Providers	122	127
Other State Agencies	100	154
Debt Service	80	0
Telecommunications	22	20
PSTC Grants	11	0
Other Expenses (e.g., consumables, utilities, travel)	201	180
Total Operating Expenditures	\$3,308	\$3,414
Excess (Deficiency) of Revenues Over (Under) Expenditures¹	\$ (3,267)	\$ (3,306)

Note: ¹Revolving fund revenue was generated by a court-imposed fee for use by the PSTC, which was transferred to the General Fund when the PSTC funding structure changed. As a result, any deficiency of revenues under expenditures was covered by the General Fund.

Source: LBA analysis of State financial information.

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**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

STANDARDS AND TRAINING

The Police Standards and Training Council (PSTC) mission identifies two fundamental responsibilities: standards and training.

Standards

The law enforcement profession, like many other professions, was expected to uphold a degree of competency and ethical standards. Unique from other professions, law enforcement officers were granted either the authority to detain individuals and place them in custody, the ability to pursue criminal charges, or both. Due to these powers, law enforcement officers were sometimes put into high-risk situations and required a certain level of training and public trust to perform the job safely and effectively. The PSTC was enacted to develop the minimum criteria for these standards of the profession and ensure compliance through monitoring activities. Industry practices for law enforcement certifying regulatory bodies included requiring: background investigations, fitness testing, medical examinations, training, and drug and psychological screening.

Background Investigations

Each officer newly hired in New Hampshire, regardless of previous law enforcement certification status, was required to undergo a background investigation by the hiring law enforcement agency. Background investigations required by the PSTC, at a minimum, involved a review of all local police files where the applicant had lived, citizenship and motor vehicle records, employment history, and a criminal background check utilizing the National Crime Information Center. Additionally, the PSTC background investigation standards included follow-up and supplemental procedures when applicable. The PSTC did not directly conduct the background investigations for hiring authorities or mandate accompanying source documentation. Instead, this standard was implemented by requiring agencies to fill out an affidavit attesting to the completion of an investigation.

Fitness Testing

Recruits attending the PSTC Full-time, Part-time, and Corrections Academies required completion of a physical fitness test upon entrance and exit from the academy. Additionally, officers hired after the year 2000 were required to complete fitness testing every three years. The PSTC implemented this standard by requiring academy recruits to conduct testing at the academy, but once certified, officers were allowed to conduct ongoing fitness testing at a convenient location under the direction of a PSTC-certified fitness instructor. Completion of the ongoing fitness testing out in the community was then reported to the PSTC.

Medical Examination

Prior to serving, law enforcement officers were required to complete a medical examination by a licensed physician. The examination included an in-depth review of the applicant's medical history. Additionally, the physician reviewed the cardiovascular, musculoskeletal, and respiratory systems of the applicant. After a series of tests, the physician made a determination whether any conditions would prevent the applicant from participating in the PSTC academies or the profession of law enforcement. Periodic medical reviews were also conducted for officers participating in the ongoing fitness requirements.

Training Requirements

Training requirements for officers were ongoing throughout the officer's career. Pre-service training was required for any officer carrying a firearm and handcuffs, or to operate an emergency vehicle. After officer certification, eight hours of ongoing refresher training was required in an area of training outside of firearms, first aid, or defensive tactics. Additionally, annual firearms training and qualification were required for officers carrying a firearm. The PSTC implemented these ongoing standards by requesting law enforcement agencies submit an affidavit attesting to compliance for an agency's roster of officers.

Drug And Psychological Screenings

Both drug and psychological screenings were common industry practices designed to determine suitability of an officer to serve in the profession. Law enforcement officers were expected to enforce drug laws and prevent those in custody from obtaining illegal controlled substances. An officer found to have used illegal substances possessed behavioral traits potentially incompatible with these expectations of the profession. Psychological evaluations were intended to assess the mental and emotional stability of an officer because of the unique requirements placed on a law enforcement officer. We note in Observation No. 1, the PSTC regulatory processes regarding drug and psychological screenings were lacking.

Observation No. 1

Require Psychological And Drug Screenings

Not all law enforcement officers are screened for psychological stability or drug use prior to assuming their duties as certified officers. RSA 106-L:6, VI stated,

The council shall require that all uncertified part-time and full-time police officers, state corrections officers, and probation-parole officers, prior to assuming their duties, successfully pass a psychological screening test battery administered under the direction of a licensed psychologist or psychiatrist according to protocols adopted by the council and designed to detect behavioral traits that could adversely affect the person's ability to perform the essential functions of a law enforcement officer.

RSA 106-L:6, IV stated,

The council shall require that all uncertified part-time and full-time police officers, state corrections officers, and probation-parole officers, prior to assuming their duties, successfully pass a medical examination including a drug screening administered under the direction of a licensed physician according to protocols adopted by the council.

However, a provision within Chapter 138, Laws 1997 which established these requirements stated, “Such additional standards shall take effect in those localities only if they are approved for funding by the political subdivision.” Therefore, law enforcement officers within State political subdivisions were required to undergo and pass psychological and drug screening only if funding was available within the political subdivision’s budget. Consequently, some law enforcement agencies within the state may have officers who have received psychological and drug screening while others may not.

Our review of 30 previously uncertified officer training files found only one instance where a psychological screening was performed and only two instances where drug testing results were voluntarily provided to the PSTC. Moreover, our survey of 108 law enforcement agencies found 28.9 percent of agencies did not consistently require drug screening and 14.5 percent did not consistently require psychological screening of uncertified officers. We also note two State law enforcement agencies reported not requiring at least one of these screenings.

The PSTC adopted rules to implement the psychological screenings, but no rules addressed the drug screening requirement. The PSTC reported implementing the psychological screening requirement was challenging due to the efforts needed to avoid implementing an unfunded State mandate. As for drug screenings, those were reportedly omitted from processes due to a long standing oversight in PSTC rule.

Additionally, no procedure existed for law enforcement agencies to provide evidence of screenings or exemption due to lack of funding. Therefore, the PSTC had no information on whether this law was implemented or if voluntary compliance existed.

By having two sets of standards for law enforcement officers depending on the law enforcement agency in which they were hired and by not collecting information on drug and psychological screenings, the PSTC cannot ensure all officers were fit for duty or State law was followed. Without psychological and drug testing, some officers performing law enforcement duties may possess psychological characteristics or drug dependence that may not be compatible with law enforcement positions, thereby jeopardizing the safety of both law enforcement officers and the public.

Recommendations:

We recommend the PSTC:

- **ensure all State-employed law enforcement officers are screened as required by law;**

- ensure all officers employed by political subdivisions are appropriately screened according to whether the subdivision has funds budgeted for such testing;
- develop rules to describe acceptable psychological and drug screening tests; and
- develop methods to ensure local hiring authorities either conducted required testing or demonstrated exemption.

The Legislature may wish to consider whether the two different standards for law enforcement officers is acceptable or whether some other resolution is necessary.

Auditee Response:

We concur with the recommendations.

RSA 106-L:6, IV and VI, require uncertified police, corrections and probation/parole officers, prior to assuming their duties, successfully pass a medical examination including drug screening, and pass a psychological screening test battery.

*Pursuant to 1997 Chapter Law, 138:4, current rule Pol 301.07 requires all uncertified police, corrections and probation/parole officers employed by the state, and all uncertified police officers employed by local units of government **who have accepted this requirement by approving the necessary funding shall, prior to hiring, successfully pass a psychological screening test battery administered under the direction of a licensed psychologist or psychiatrist....***

We will review the rules and statutory mandates regarding both psychological and drug screening and consult with legal counsel to determine whether requirements are an unfunded mandate and whether amendment(s) to the rules are appropriate. Should the legislature enact statutory amendments, the Council will draft policies and rules as appropriate.

We will propose an amendment to Pol 301.06 to include verification on Employee Status Notification Form "A", that the requirements for psychological testing have been met pursuant to Pol 301.07 and an amendment to Pol 301.04 to include the requirement for drug screening on the Medical Form "D".

Observation No. 2

Improve Application And Certification Forms

The PSTC certification files did not always contain all required documents or have all documents sufficiently completed. We reviewed 51 newly hired law enforcement officers and found the following noncompliance with PSTC rules or statutes:

- five of the 51 (9.8 percent) newly hired officers did not correctly complete all mandatory sections of the background investigation affidavit. Three of the five (60.0 percent)

incomplete background investigation affidavits were due to a hiring agency not indicating whether military records were checked;

- nine of the 51 (17.6 percent) employment status notification forms for newly hired officers were submitted more than 15 days after the officer's hire date;
- one of four (25.0 percent) officers seeking an exemption from attending a PSTC academy did not provide a completed form demonstrating prior training and experience;
- two of the 30 (6.7 percent) previously uncertified officers did not complete the medical history and examination form required by rule, but submitted a one page medical clearance report as a substitute; and
- two of 30 (6.7 percent) medical examinations were submitted a month after the officer's hire date, although statute required completion of the form prior to serving as an officer.

Our review of ongoing requirements filed by law enforcement hiring authorities found:

- six of 22 (27.3 percent) employment status notification changes were more than 15 days past the effective date of the officer's employment change date;
- three of the 38 (7.9 percent) agencies provided affidavits which included firearm instructors not certified by the PSTC.

We found the certification documentation processes was hindered by a lack of well-designed forms, automation, clear instructions for officers and law enforcement agencies, and insufficient review by PSTC staff.

Forms

Documentation was incomplete because of the following issues with forms and their functionality:

- "Employee Status Notification Form A" and "Employee Status Notification Form B" could be combined into a single "Employee Status Notification" form.
- Not all forms are completely electronically fillable. It may be more efficient to have more forms electronically fillable.
- A statement on unsworn falsification needs to be added to several forms.
- Duplicative forms for officers with prior training and experience contain inconsistent, illogical, or incomplete information requests. One form asks for duplicate information from forms already submitted such as copy of high school or high school equivalency diplomas which were already supplied with "Employee Status Notification Form A".

Due to the reliance on manual processes, the form submission process needs more review to improve compliance. The PSTC could increase compliance by reducing the number of forms. In addition, providing more detailed instructions on how to complete the forms could be valuable since some noncompliance may be due to officer or agency not understanding what the form is

asking for or under what circumstances the form must be completed. As mentioned in Observation No. 10, all forms requiring information of external parties may either be described in rule or adopted by reference.

Without clear, unambiguous, streamlined forms, clear instructions, and sufficient staff review upon receipt, the PSTC cannot be assured its process flows are efficient and effective.

Recommendations:

We recommend PSTC management improve its forms to ensure the application and certification processes are efficient and collect all the required information. The PSTC should ensure all the forms are complete upon receipt and only accept complete and compliant forms.

Auditee Response:

We concur with the recommendations.

We continually seek to improve our forms to streamline and improve the accuracy and efficiency of the system. We have submitted a capital improvement request to purchase a modern, relational database with built-in controls that would be a substantial improvement in accuracy and efficiency by allowing agencies to submit required forms electronically.

In order to improve clarity, we will propose an amendment to Form “I” Affidavit of Background Investigation to include an indication that military records are ‘not applicable’ if the individual has never been in the military.

Observation No. 3

Ensure Audits Are Periodically Conducted

We found the PSTC compliance monitoring function lacked consistency to ensure law enforcement agencies fully complied with standards set by the PSTC. Although Observation No. 2 illustrated some of the problems identified when we reviewed paperwork filed with the PSTC, the PSTC heavily relied on law enforcement agencies submitting affidavits and other forms attesting to compliance with PSTC standards. By design, these documents were only meant to acknowledge compliance. However, the PSTC conducted no documented audits during the audit period and was only able to provide documentation for audits performed before and after the audit period.

The lack of audits by the PSTC was reportedly due to resource constraints. The PSTC audits were likely labor intensive since they involved onsite visits and a review of all files. A more efficient methodology to ensure compliance could include occasionally requesting source documentation to accompany an affidavit and the use of sampling to limit the number of files to review. However, without a policy or procedure periodically requiring audits, the PSTC had no assurance the hiring authorities actually complied with PSTC rules and statute.

Previous audits conducted by the PSTC found both minor and significant noncompliance with PSTC standards, such as, poor record keeping and unreported criminal activity. By allowing the PSTC audit function to become dormant during the audit period, the PSTC risked unchecked noncompliance with statute and rules.

Recommendation:

We recommend the PSTC develop policies and procedures defining the PSTC audit function and ensure they are periodically conducted.

Auditee Response:

We concur with the recommendation.

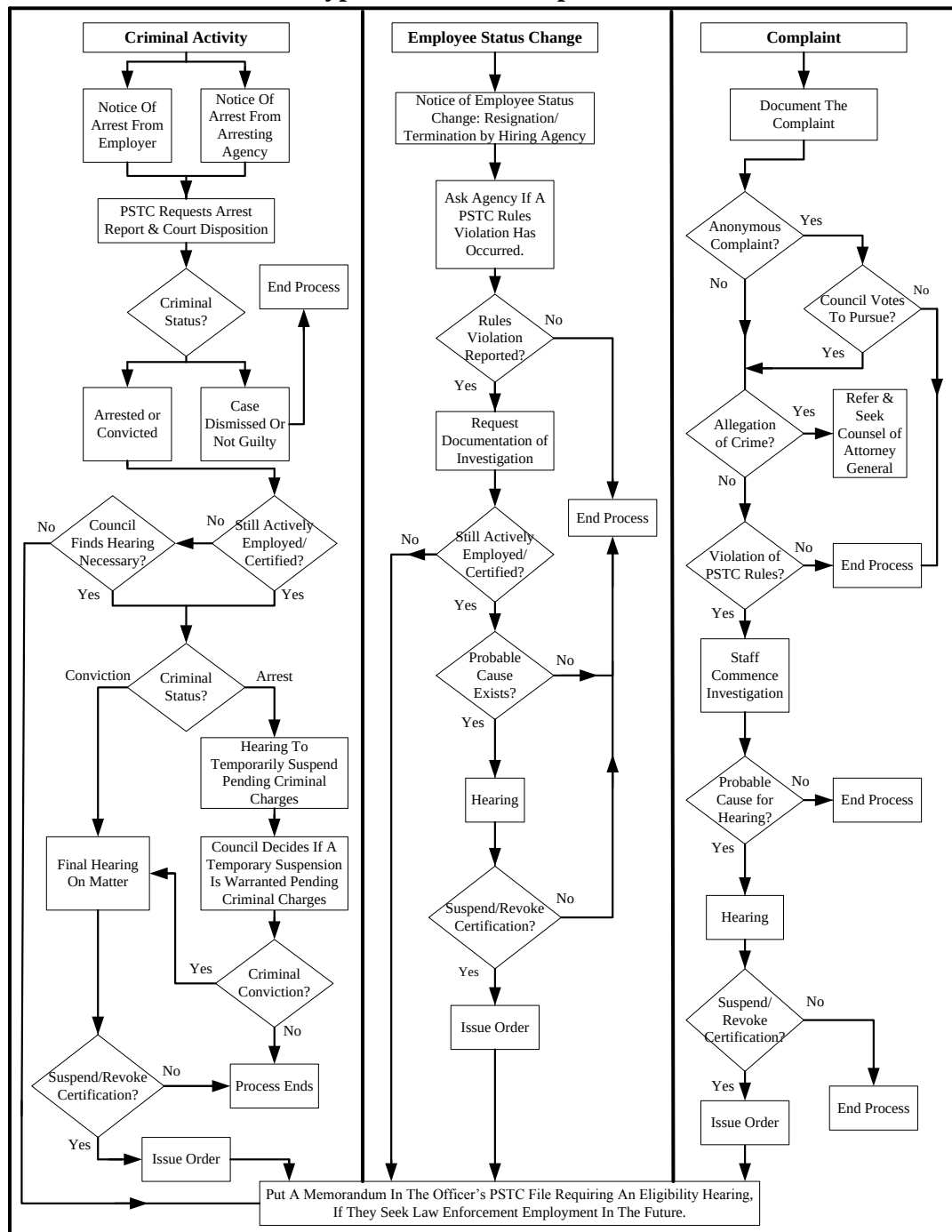
We will adopt policies and procedures to define circumstances under which PSTC will conduct compliance audits on law enforcement agencies to include audits whenever a new chief law enforcement officer has been appointed or elected.

Complaints And Discipline

The PSTC had three different processes of becoming aware of potential misconduct or noncompliance: criminal activity, officer termination or resignation, or a complaint submitted for a violation of PSTC administrative rule. Our file review of disciplinary hearings before the PSTC, found criminal activity was the most frequent reason for disciplinary hearings and driving while intoxicated was the most common criminal offense alleged. Noncriminal matters ranged from willful violation of fitness testing rules to officer dishonesty resulting in a resignation. Figure 2 demonstrates the complaint and disciplinary processes.

Figure 2

Three Types Of PSTC Complaint Processes



Source: LBA analysis of PSTC complaint and disciplinary processes.

Observation No. 4

Improve Complaint And Disciplinary Processes

We found the PSTC complaint processes included gaps in both: 1) restrictions on disciplinary authority and 2) misconduct reporting mechanisms.

Disciplinary Authority

The International Association of Directors of Law Enforcement Standards And Training (IADLEST) states law enforcement officers should be subject to discipline for any of the following acts: conviction of a misdemeanor or felony, dishonesty, reckless disregard for others' rights, or violations of the code of conduct as established by the governing body. The PSTC administrative rules limited disciplinary jurisdiction to a wide variety of offenses, including convictions of crimes, both felonies and some misdemeanors, mental health issues, or an array of other specific reasons such as being discharged from service or resignation in lieu of discharge. However, the PSTC does not appear to have jurisdiction over some officers under specific circumstances.

Non-Discharged Employees

The PSTC was generally made aware of officers who were demoted, suspended, or put on administrative leave by their hiring authority, but the PSTC was not made aware of the specific reasons for the hiring authority's disciplinary action. Although the PSTC administrative rules addressed discipline for law enforcement officers demonstrating dishonesty or a disrespect for the law when discharged from their position, arrested, indicted in a criminal complaint, or found to have used or possessed a controlled substance, rules and practices did not address other circumstances that may reflect an officers fitness for duty. For example, under PSTC rules and practices an officer could be suspended for any length of time by their hiring authority for dishonesty or excessive force without the PSTC possessing the authority or requisite information to take appropriate action against their certification as long as the officer remains employed and was not pursued in a criminal proceeding.

The rationale for not pursuing discipline against suspended officers was reportedly based on two assumptions: 1) suspensions issued by hiring authorities were commonly issued for trivial offenses, and 2) serious and substantiated misbehavior would likely result in termination by the law enforcement agency or a criminal complaint. While the PSTC practice of not pursuing officers suspended by their hiring authority may have been reasonable in most scenarios, administrative rules may have been too narrowly structured to allow for a potential situation where the PSTC could become aware of serious misconduct but be unable to act. Additionally, the PSTC rationale assumed hiring authorities were consistent in their decisions to discharge officers due to misconduct.

One scenario in which the PSTC did not pursue discipline was when certain officers were added to the Exculpatory Evidence Schedule (EES), formerly known as the "Laurie list." The EES was

a list maintained by county and State prosecutors that contains the names of law enforcement officers where evidence or an allegation of misconduct could impeach an officer's credibility in a court proceeding. The PSTC management reported this list was unreliable and did not pursue officers on the list for disciplinary action. While some officers who were discharged from their positions because of the underlying facts that got them added to the EES would be subject to PSTC discipline, some officers who were not discharged from their positions would not be subject to discipline by the PSTC unless the misconduct resulted in a criminal proceeding. While the structure of this list was being revised throughout the audit period, the Department of Justice was in the process of making modifications to the list which could assist the PSTC in identifying substantiated cases of misconduct by active law enforcement officers.

Not-guilty Verdicts

The PSTC policy and practice was to not pursue officers in cases of not guilty verdicts and PSTC rules prevented the PSTC from pursuing discipline in cases where the officer maintained employment with the law enforcement agency. However, a non-guilty criminal verdict fully investigated by a law enforcement agency may have still resulted in an actionable offense under the PSTC evidentiary standards.

While the PSTC relied heavily on the criminal justice system to adjudicate allegations against officers, the criminal justice system and the PSTC's civil regulatory system had separate evidentiary standards. The evidentiary standard in criminal matters to convict was beyond a reasonable doubt, while the evidentiary standard used by the PSTC in final disciplinary hearings was a lower standard of preponderance of evidence. Therefore, an officer found not-guilty of a crime may still have been found by the PSTC to have committed the underlying act because of its lesser evidentiary standards. The IADLEST industry standards recommended serious misconduct, whether a guilty conviction or not, should be grounds for discipline.

Misconduct Reporting Mechanisms

The PSTC system to detect officer misconduct was only as effective as the reporting mechanisms used to identify the misconduct. We found the PSTC complaint processes lacked effective procedures to address officers or agencies chronically underreporting criminal misconduct.

Unreported Criminal Activity

To ensure allegations of officers participating in criminal misconduct were reported, the PSTC requires both the hiring authority of the accused officer and the agency arresting the officer to report to the PSTC. While requiring two agencies to report criminal misconduct created an additional safeguard, the PSTC took no disciplinary action to ensure timely and consistent compliance with reporting officer arrests. For example, administrative rule required an agency to report an arrest within 15 days. However, our file review of PSTC disciplinary hearings found 3 out of the 20 (15 percent) instances where an officer arrest went unreported to the PSTC for over 30 days. Further, one of those three instances was never reported by an arresting agency or hiring authority. Instead a member of the Council became aware of the arrest through a newspaper

article. Finally, one law enforcement agency with nine arrested officers during the audit period, only reported five out of nine (55.6 percent) arrests to the PSTC.

By allowing agencies and officers to not self-report criminal activity without additional consequences for the officer, the PSTC may have increased the likelihood of criminal activity going undetected.

Recommendations:

We recommend PSTC management improve the complaint and disciplinary processes by:

- **increasing authority in administrative rule to allow for the disciplining of non-terminated officers and officers found not-guilty of criminal offenses; and**
- **develop mechanisms and procedures to ensure unreported criminal misconduct is addressed.**

Auditee Response:

We concur in part with the recommendations.

We will review the administrative rules and explore potential amendments that may be appropriate to address potential discipline of non-terminated officers and officers that have been found not guilty of criminal offenses, yet may be in violation of Council rules, including moral turpitude.

We will periodically provide reminders to agency heads regarding the requirement in administrative rules to report arrests of officers to the council within 15 days.

We do not concur that PSTC should pursue discipline when an officer is added to the Exculpatory Evidence Schedule. The EES is a tool for prosecutors, defense and the courts to determine whether an officer may have credibility issues. It was not designed, nor intended to be used, as a trigger for a disciplinary action and is therefore, not relevant to this audit.

LBA Rejoinder:

We agree the function of the EES is for a specific purpose and mere presence on the list should not trigger Council disciplinary action. However, the EES is another source of information the Council could use to identify officers the Council may wish to investigate further given the seriousness of the allegation. If the Council has used newspaper articles to identify officers that should come before the Council, it seems prudent to periodically review the EES to identify officers who have not been brought to the attention of the Council in another way.

Training

Training was the largest part of the PSTC organizational structure and operations. The PSTC training operations involved a series of educational tools and systems designed to produce effective and safe training. Components of the PSTC training operations included: lesson plan development and implementation, instructional delivery, instructor evaluation, instilling a culture of discipline, curriculum updating, controlling student testing environments, and ensuring safe scenario and firearms training.

CALEA Standards

To assess the PSTC's training operations, we reviewed the PSTC policies, procedures, and practices relative to the Commission on Accreditation for Law Enforcement Agencies (CALEA) standards for public safety training academies. The CALEA standards are a set of industry practices designed to promote accountability and limit risk for training academies seeking to provide quality training for public safety officers. Although not required to follow CALEA standards, we used CALEA standards to assess the PSTC operations without holding them accountable to every detail. Table 3 shows we found a majority of PSTC academy operations fully or partially aligned with CALEA standards for training academies. Several areas of noncompliance or partial compliance did not appear to pose a substantial risk or identifiable negative impact to PSTC operations in our opinion. Because CALEA standards are proprietary, there are limitations on how we can discuss them in this report.

Table 3

Percent Of PSTC Compliance With CALEA Standards For Training Academies, During The Audit Period

Standard Applicability	Number of Standards	Non Compliant	Partially or Fully Compliant
Mandatory	124	23.4%	76.6%
Optional	24	45.8%	54.2%
Overall	148	27.7%	72.3%

Source: LBA analysis of CALEA standards and PSTC academy operations.

We note some areas where the PSTC academy operations diverged from CALEA standards could benefit from further improvement as described in Observation Nos. 5 and 6.

Observation No. 5

Ensure Consistent Management Of Instructors

We found the PSTC inconsistently managed its academy instructors. Whether instructors were directly employed by the PSTC, contracted, or volunteered their time, all instructors effectively

shared the same responsibility of ensuring law enforcement officers received adequate training in accordance to the PSTC curriculum. We found the following areas where the PSTC could improve management of its instructors:

- *Approving and Credentialing:* While PSTC staff and contracted instructors went through a structured approval process, volunteer instructors were informally approved and the PSTC maintained no roster, files, curricula vitae, or any other evidence of relevant training. CALEA standards suggest management approve instructors, instructors meet academy criteria, and have any requisite credentials verified.
- *Training:* Although PSTC management reported all instructors received some level of training, the level of training was reported as inconsistent and sometimes informal. CALEA standards suggest instructors receive comprehensive training in developing an effective training course and instructional techniques.
- *Monitoring and Evaluation:* Non-PSTC staff instructors were almost always monitored in the classroom by PSTC staff, but monitoring efforts did not result in written evaluations. CALEA standards suggested instructors be monitored by more experienced instructors until deemed effective and then monitored biennially.

Monitoring Of Non-PSTC Instructors

As a result of how non-PSTC staff instructors were vetted and trained, PSTC staff spent a considerable amount of time monitoring non-PSTC staff instructors. We determined non-PSTC staff taught a total of 282 instructional hours in the full-time and part-time academies. We estimated approximately 18 hours per week were spent by PSTC staff or cadre resources monitoring the instruction of these courses. Multiple PSTC staff reported monitoring efforts may not be the most efficient use of staff time. Consequently, if the PSTC followed CALEA standards consistently, monitoring efforts would be significantly reduced. Additionally, recruits provided feedback on each class and instructor which allowed the PSTC to monitor instructors without allocating instructional resources.

The inconsistent management of non-PSTC-employed academy instructors was primarily due to the challenges with relying on volunteers to supplement the PSTC employee instructional workload. While some volunteers remained consistently dedicated to volunteering to teach at the PSTC academy, some volunteer instructors were only briefly involved.

Recommendations:

We recommend the PSTC improve policies and practices to ensure the consistent management of instructors by:

- **developing credential verification and instructor approval processes for non-PSTC instructors with some degree of parity to the treatment of PSTC staff instructors,**
- **setting a minimum level of instructor training required and ensuring those standards are consistently met with written evaluations, and**

- **reducing the level of monitoring activities of non-PSTC instructors after instructional proficiency has been demonstrated and documented by the PSTC.**

Auditee Response:

We concur with the recommendations.

We will develop an instructor approval process, to include a minimum level of instructor training with periodic written evaluations and maintain a roster of approved instructors.

We will reduce the frequency of monitoring of non-PSTC instructor when deemed appropriate.

Observation No. 6

Incorporate Job Task Analysis Into Curriculum Development

The PSTC lacked a current job task analysis to incorporate into the development of the academy curriculum. A job task analysis is a method to identify and review the tasks required of law enforcement officers. Each task is analyzed to determine the frequency, significance, and most effective training method. Both the CALEA and the IADLEST suggest a job task analysis should be periodically conducted and used as the basis for an academy curriculum. However, the PSTC last completed a job task analysis in 2000.

The job task analysis was reportedly not updated due to the expense of hiring a vendor to conduct the comprehensive analysis. Although the PSTC may have been limited by resources, the PSTC could have better utilized the job task analysis framework in updating academy curriculums. For example, the PSTC was not able to ensure each modification to the curriculum was supported by a current job task analysis or demonstrate any in-depth analysis on how each class should be trained. Consequently, our survey found multiple law enforcement agencies and officers reported aspects of the curriculum were outdated, lacked the appropriate level of scenario based training, or were not best suited for an academy setting.

Lastly, the PSTC Chairman reported the law enforcement profession was facing dynamic changes in societal expectations which further underscored the need for an updated job task analysis.

Recommendation:

We recommend the PSTC seek funding to ensure an updated job task analysis is completed and the results integrated into their curriculum.

Auditee Response:

We concur with the recommendation.

We agree that an updated Job Task Analysis would be helpful in ensuring the training curriculum is up to date and meeting current trends and the changing expectations of law enforcement. We will explore the cost of a JTA and seek funding to accomplish it.

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**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

MANAGEMENT OF OPERATIONS AND MEETINGS

Management is tasked with ensuring an organization achieves its mission. Management develops the plans, policies, procedures, strategies, reports, and organizational structure to achieve this mission effectively and efficiently. To be effective, management integrates these functions in ways that ensures compliance with legal requirements and best safeguards assets. Operations of the Police Standards and Training Council (PSTC) included serving 229 customer agencies, overseeing approximately 4,700 certified officer positions, maintaining a 77,000 square foot facility with a small fleet of vehicles, and conducting monthly meetings which adjudicated matters requiring PSTC action.

Observation No. 7

Develop Performance Measurement System And Strategic Plan

Performance measurement is the ongoing monitoring and reporting of program accomplishments, particularly progress toward pre-established goals and is typically conducted by program management. Performance measurement focuses on whether a program has achieved its objectives, expressed as measurable performance standards. Performance measures may address the type or level of program activities conducted (process), the direct products and services delivered by a program (outputs), or the results of those products and services (outcomes). A performance measurement system promotes efficient and effective management by assessing whether an agency's activities are achieving its mission and producing desired results. Such a system can tie activities to goals supporting the agency's mission, compare actual performance to pre-established targets, allow agencies to identify their strengths and weaknesses, and actively monitor performance over time. Therefore, establishing formal goals, objectives, and strategic plan would be the starting point for a performance measurement system. Although the PSTC had a strategic planning session in September 2017, no formal goals, objectives, or strategic plan were formally produced by the exercise.

The PSTC produced quantitative outputs to measure its performance during the audit period. While the PSTC published in its annual report some output data, such as number of recruits graduating during the year and the number of in-service trainings taught during the year, there were no established goals to compare the data with to see if the goals were met. In addition, no year-to-year comparisons were provided in the PSTC annual reports to show trends.

The PSTC Director collected qualitative information by meeting with law enforcement hiring authorities and officers around the State to obtain customer feedback on PSTC operations. However, the information was not summarized or quantified so it could be analyzed by PSTC management or stakeholders. Outcome data such as survey results from law enforcement officers and agencies could provide management and the public with meaningful perspectives on whether the PSTC was meeting its goals, as well as establish baseline measurements of PSTC performance. The Commission on Accreditation for Law Enforcement Agencies (CALEA) standards suggested, as an optional standard to training academies, a periodic survey of client

agencies and students, to include post-graduate officers, to measure their satisfaction with training provided to officers, employee competence, and suggestions for improvement. These surveys could reduce the amount of time the Director spends on the road visiting law enforcement stakeholders and may ultimately be more efficient. Finally, a survey could easily reach a large audience, thereby addressing the concerns of 47.2 percent of hiring authorities we surveyed who did not report being satisfied with the PSTC outreach efforts.

As a result of not having a formal strategic plan with defined goals and objectives connected to a performance measurement system, the PSTC's ability to monitor and report on program effectiveness was limited. While the PSTC performed some strategic planning and performance measurement activities, these efforts were not clearly defined in policy or further developed into systems capable of collecting sufficient information.

Recommendation:

We recommend the PSTC complete a comprehensive strategic plan which identifies goals and objectives for the PSTC, and then design performance measures which can be tracked to determine the organization's achievement of these goals and objectives.

Auditee Response:

We concur with the recommendation.

While continuing outreach through visits to agencies, attendance at the meetings of the County Chiefs of Police Associations, the NH Chiefs of Police Association and the NH Sheriffs Association, we will seek input from stakeholders through periodic surveys. We will continue to hold periodic planning sessions, which are attended by Police Chiefs, Sheriffs, various Law Enforcement Officers Judges, Legislators, Defense Attorneys and others. Curriculum updates and changes to rules, policies and protocol, have been based on the valuable insight and feedback received through the Director's visits to agencies and meetings with law enforcement associations, and through planning sessions.

We will identify goals and objectives and performance measurements to track progress towards those goals and objectives.

Observation No. 8

Improve Process Efficiency

The PSTC used an internally developed database that did not fully support routine tasks necessary for the efficient operation of the PSTC. The two primary activities of the PSTC – initial certification and managing certification – relied heavily on manual processes performed by both PSTC staff and law enforcement hiring authorities.

Initial Certification

One of the PSTC's primary tasks was to provide basic training and certification to law enforcement officers. Components of this task include receiving applications from hiring authorities, providing basic training to recruits, and certifying officers upon completion of the academy. A review of the PSTC's officer certification process indicated several manual processes. The required forms were manually completed by the hiring agency, printed, and then mailed to the PSTC where they were received, date and time stamped, and entered into the PSTC database by a program specialist. The program specialist then either located the hard copy file for filing the paperwork or created a new file if none existed. A separate spreadsheet was used to track the status of applicants and the documents they supplied. Once all documents were received, the individual was added to the academy on a first-application-completed basis until capacity was reached (67 recruits for the full-time academy).

Also, when an officer had a status change (hire, promotion, retire, etc.), a Form A or B was completed by the hiring authority and mailed to the PSTC where a program specialist entered the information into the database. A Form A or B was completed by every hiring authority for every status change for every officer in the State, which had to be manually filed and subsequently entered into the PSTC database.

Managing Certification

The PSTC was also responsible for enforcing standards. Components of enforcing standards included: receiving referrals of alleged violations of law or rules from hiring authorities and arresting agencies, adjudicating allegations of law and rule violations, and suspending or revoking certification. In enforcing standards, both the hiring authority and the arresting agency were required to report arrests to the PSTC using Form G within 15 days. The hiring authority and the arresting agency must manually fill out the form and mail it to the PSTC where it was time and date stamped. The program specialists at the PSTC then entered the data from the Form G into the PSTC database. The Form G was then sent to the Investigative Paralegal for the case to be added to the agenda of the next PSTC meeting. The Investigative Paralegal also requested arrest and investigative documents of the arrest and issued a notice of hearing. If the PSTC revoked or suspended the officer's certification, a comment was added into the "comment" field in the database. Because the certification status was entered into a free form comment box, the database was unable to specifically identify who was certified, revoked, or suspended without looking at the individual record. Reports excluding officers who have had their certification revoked or suspended cannot be produced by the database.

The PSTC may improve efficiency for both hiring authorities and PSTC personnel by enabling electronic form completion, submission, and entry by using commercially available software. With automation, the hiring authority or arresting agency could complete the forms online and submit them to the database online as well, eliminating the need for the PSTC staff to enter the data manually. In addition, the current database required manual manipulation of its data tables, which jeopardized the reliability of the data.

During the audit period, the PSTC went from being administratively attached to the Community College System of New Hampshire (CCSNH) to its own independent State agency. While attached to the CCSNH, the PSTC had few information technology resources available to improve its customer service. The PSTC reported it was unable to budget for a replacement database in the past because the police training fund, which determined PSTC revenue prior to the audit period, did not provide sufficient funds. Currently, the PSTC is funded through the General Fund. The PSTC planned to request \$150,000 during fiscal year 2020-2021 capital appropriations to replace its current database.

Recommendation:

We recommend the PSTC work with the Department of Information Technology to reengineer its processes for efficiency and identify or develop suitable software to assist the PSTC in achieving its primary responsibilities efficiently.

Auditee Response:

We concur with the recommendation.

Our current database is outdated, unsupported by DoIT and not sufficient to meet our needs. We have conferred with DoIT and have submitted a Capital Improvement Project Request for FY20-21 to purchase a new, up to date database system to include electronic submission and acceptance of required information and forms, with built-in controls to assure accuracy and completeness.

Observation No. 9

Comprehensive Risk Management Needed

The PSTC lacked formal and comprehensive risk management to address potential risks which may disrupt PSTC mission and operations. During the audit period, the PSTC partially implemented a risk management policy which involved a periodic meeting of PSTC staff to discuss academy safety concerns and risk mitigation efforts. However, the PSTC processes did not include a broad review of all potential risks or result in a comprehensive formal risk assessment.

Comprehensive risk management involved identifying, analyzing, and responding to risk. Once both internal and external risks preventing an organization from achieving an objective were identified, each risk was analyzed for significance and likelihood. Finally, the last step of the assessment involved formulating a strategic response. Since the PSTC staff meeting only discussed academy safety concerns, serious programmatic risks were omitted from the PSTC processes. Consequently, we found areas where the PSTC appeared to accept risks without any analysis by management which may have prevented the PSTC from achieving its objectives. For example, we found gaps in PSTC rules and processes which enabled officers who may be unfit for a career in law enforcement to become or stay certified.

In our 2005 financial audit of the PSTC, we found the PSTC had no formal risk management policies and procedures. Subsequently, our 2010 financial audit found the PSTC had made substantial improvements in the area of risk management. While the PSTC policy and its partial implementation was an improvement, the policy was not fully implemented.

Recommendation:

We recommend the PSTC fully implement a risk management policy which includes a comprehensive written risk assessment.

Auditee Response:

We concur with the recommendation.

We will update our risk management policy and include a comprehensive written risk assessment.

Observation No. 10

Improve Administrative Rules

We found multiple areas where PSTC administrative rules need to be improved, including: rules without statutory authority, expired rules, and unadopted forms. Rules allowed State agencies to set standards and regulations applicable to outside parties by clarifying and implementing statutes. To be binding and enforceable, rules were required to be adopted in a manner consistent with statute.

No Authority To Punish Law Enforcement Agencies

PSTC rules included a disciplinary mechanism to penalize law enforcement agencies not complying with PSTC rules by limiting the law enforcement agency's ability to send personnel to the academy free of charge or temporarily banning attendance. The *Administrative Procedures Act* required all State agency penalties or fines to be specifically authorized in statute. However, no clear authority to ban law enforcement agency attendance at the academy or issue a fee as punishment for noncompliance existed in statute. Instead, the PSTC primary disciplinary tool in statute and in practice was to take action on an officer's certification. Although the PSTC management reported not invoking this agency-wide punishment, the existing rule was not consistent with statute and may be unenforceable.

No Authority To Modify Quorum

Unless specifically described in statute, the default quorum of a public body with three or more members was a majority of the public body's members. However, PSTC rules adopted a quorum requiring six of the 14 (42.9 percent) PSTC members to be present for a meeting. While the

quorum of six PSTC members may have been adopted under the previous 12 member PSTC, a majority of PSTC members was required by statute. Therefore, the quorum in PSTC rules was required to be seven under the previous 12 member PSTC and eight under the current 14 member PSTC.

Expired Rules

During the audit period, the PSTC did not timely respond to changes in statute requiring the PSTC to update rules and prevent rules from expiring. Recent changes to statute impacting PSTC rules which were not addressed during the audit period included: the addition of two public members to the PSTC, the change in PSTC administrative relationship with the CCSNH, and the repeal and reenactment of PSTC statute. The *Administrative Procedures Act* required the PSTC to begin the rule making process to address organizational changes in statute within 90 days and to fully adopt the new administrative rules within one year. However, the PSTC did not initiate rule making procedures to address these statutory changes. Consequently, the PSTC operated under an expired quorum definition in rules which was not updated after the change in the number of PSTC members. Further, several of the PSTC administrative rules referenced a defunct statute.

Unenforceable Forms

All requirements on external parties not specifically defined in statute were required to be adopted in rules. Forms requiring information of external parties may be described in rule or adopted by reference. While the PSTC described multiple forms in administrative rule, a few of the forms used in practice had minor inconsistencies with the rule. Further, the PSTC utilized several forms not adopted or described in rule, including:

- an application for enrolling at the academy,
- two different and duplicative applications for officers seeking certification based on prior training and experience,
- two forms demonstrating completion of the ongoing fitness testing and the medical clearance report prior to fitness testing,
- two forms requiring recruits to acknowledge the requirements to complete and participate in ongoing physical fitness testing,
- a form requesting the PSTC grant an extension from a PSTC requirement,
- a status notification form for border patrol agents,
- a firearms instructor qualification form, and
- an application to be a cadre for the academy.

Additionally, we note one unenforceable form requested a social security number without authority as required by the *Administrative Procedures Act*.

During the beginning of the audit period, the PSTC readopted and amended most of their rules. However, the PSTC did not address all procedural and operational rules during this readoption effort and some statutory changes occurred after rule adoption. Further, readoption efforts did not include a comprehensive review of forms and application processes.

Recommendations:

We recommend the PSTC improve administrative rules by ensuring:

- **rules are consistent with statute,**
- **updated timely, and**
- **all forms requiring information from external parties are properly adopted.**

Auditee Response:

We concur with the recommendations.

We will review the rules; statutory requirements, authorities and forms, to correct any inconsistencies with any statutory changes, and assure all appropriate forms are properly adopted.

Observation No. 11

Evaluate Efficiency Of Internal Maintenance Crew

The PSTC used an internal maintenance crew which limited their ability to take advantage of economies of scale. Most State agencies received custodial and maintenance services from one of three bureaus under the Division of Plant And Property Management within the Department of Administrative Services (DAS). However, the PSTC employed a small crew of two maintenance employees and two custodial employees responsible for a 77,000 square foot building, 20.9 acre campus, and a fleet of 13 vehicles. While we found the use of an internal maintenance crew was not inherently inefficient, greater efficiency may be gained by restructuring the PSTC maintenance crew and transferring responsibilities to the DAS.

Areas where a larger maintenance crew managed by DAS may provide operational advantages to the PSTC and the State, included:

- *Work Order System:* DAS managed maintenance requests and tasks using work order system software to schedule, plan, respond, and manage the maintenance work being performed. In contrast, the PSTC lacked any formalized work order system to assist in operations and help ensure maintenance operations were efficient and effective. Consequently, developing reports on the status of maintenance operations was a manual process for PSTC staff and lacked detailed analysis capability for PSTC management.
- *Specialized Labor:* Larger maintenance crews were able to employ specialized labor. For example, DAS maintenance crews had specialized employees, such as, groundskeepers, carpenters, pipefitters, and electricians. In contrast, the PSTC was limited in their ability to access specialized skills given their small size.

- *Shift Coverage:* Larger maintenance crews had the opportunity to more easily provide shift coverage by relying on a larger pool of workers.
- *Fleet Maintenance:* During the audit period, State vehicle maintenance and inspection was decentralized throughout the State. Some large State agencies maintained internal garages to serve their State fleet and some agencies outsourced vehicle maintenance. The PSTC maintained an internal garage to perform inspections and minor repairs to vehicles, but outsourced major repairs. Due to the small fleet size of the PSTC, it may be more efficient to send PSTC vehicles to a larger State garage or private vendor, instead of PSTC maintaining a small garage.

The establishment of the PSTC as a State agency with an internal maintenance crew was likely more efficient when the PSTC and the CCSNH were combined, since the mutual workload and resources were greater and could be more easily shared. However, the PSTC and CCSNH severed any formal relationship in statute during the audit period, so the original justification for an independent maintenance crew may be less practical now.

Recommendation:

We recommend the PSTC explore opportunities to combine maintenance services with DAS and determine whether to keep its internal maintenance crew independent. Its assessment should be reported to the relevant legislative oversight committees for their review.

Auditee Response:

We concur with the recommendation.

While we believe the independent maintenance crew is appropriate to meet unique needs of PSTC, we agree that we should explore any cost effective opportunities to improve services. We will consult with DAS as recommended, to determine if combining maintenance services would improve efficiency while addressing the unique needs of PSTC.

County Corrections Officers

Unlike State corrections officers employed by the Department of Corrections, statute excluded county corrections officers from the requirement to be certified by the PSTC. Instead, county corrections officers were certified and trained under a five-week training program by the New Hampshire Association of Counties (NHAC). Although exempted from PSTC certification, the PSTC was still required by statute to approve the county corrections academy curriculum drafted by the NHAC for all county corrections officers seeking to be placed in the Group II retirement system.

Observation No. 12

Define Role In Reviewing County Corrections Academy Curriculum

The PSTC lacked a clearly defined process for reviewing the county corrections academy curriculum and exerting oversight over the training of county corrections officers. RSA 100-A:1, VII(c)(2), requires county corrections officers to be certified as correctional personnel by the NHAC after successful completion of a PSTC-approved course of training. However, no administrative rule, policy, or procedure existed to ensure the PSTC consistently fulfilled its oversight responsibility and NHAC effectively implemented the approved curriculum. Consequently, we found discrepancies between the county corrections academy curriculum last approved in July 2013 and the curriculum being implemented during the audit period. For example, some courses were eliminated or amended, the course length was modified, or the order of classes were rearranged.

Areas where the PSTC oversight lacked clear and formal processes included:

- *Frequency of Review:* Without a defined review frequency, the length of time between PSTC reviews varied and it was unclear when and who should initiate a review. Prior to July 2013, the last approval of the curriculum was done almost three years earlier in September 2010. In contrast, the current curriculum has been in effect for at least five years.
- *Scope of Review:* The PSTC management reported the purpose of the county corrections academy curriculum review was to ensure training county corrections officers received aligned with industry standards and was kept current. The last curriculum update was initiated by NHAC after requesting an outside audit of their academy and presenting their findings to the PSTC. However, the PSTC did not clearly communicate to NHAC in rule or policy the scope of the PSTC's review and the criteria NHAC was required to achieve.
- *Degree of Autonomy:* During the last review in 2013, some of the modifications to the curriculum NHAC requested the PSTC approve appeared less consequential than other changes to the curriculum. For example, the location in the schedule when certain classes would be taught. Subsequently, the NHAC made additional minor modifications to the order of courses in the schedule without PSTC approval in the 2018 curriculum. Without a clearly defined process in rule, it was unclear the amount of autonomy and flexibility the NHAC had to implement their training program while staying compliant with the PSTC-approved curriculum.

RSA 541-A requires agencies to adopt administrative rules in certain circumstances in addition to other rulemaking requirements imposed by law such as when adopting rules of practice setting forth the nature and requirement of all formal and informal procedures. Administrative rules are meant to prescribe or interpret agency policy, procedure, or practice binding on persons outside the agency, whether members of the public or personnel in other agencies. Administrative rules facilitate intergovernmental collaboration as they have the force of law. Rules provide greater certainty and

regularity in agencies interacting with others, and the rule-making process provides public and Legislative oversight over agency actions.

The lack of a structured oversight program of the county corrections academy curriculum may have been due to the infrequent and sporadic need to review the curriculum.

Recommendation:

We recommend the PSTC adopt rules defining the approval and oversight of the county corrections academy curriculum, including: the frequency and scope of review, and the degree of autonomy delegated to the NHAC to implement an approved curriculum.

Auditee Response:

We concur in part with the recommendation.

We will work with the Corrections Advisory Committee and Association of Counties to draft protocol defining approval of the county corrections academy curriculum and the frequency and scope of the curriculum review.

We do not concur that PSTC should adopt administrative rules regarding County Corrections curriculum or the Association of Counties.

RSA 100-A:1, VII(c) requires certain county corrections officers to be certified by the Association of Counties after successful completion of a course of training approved by the police standards and training council in order for the county corrections officer to be eligible for membership in the group II retirement system. However, there is no provision in RSA 106-L authorizing the police standards and training council to adopt administrative rules regarding county corrections, or the Association of Counties.

Also, even if county corrections were regulated under RSA 106-L, RSA 541-A:21(s) exempts authority under the provisions of RSA 106-L:5, VI from the Administrative Procedure Act (RSA 541-A).

RSA 541-A:21 Exceptions;

(s) RSA 106-L:5, VI, relative to educational, training, and evidentiary standards and curriculum requirements for police and corrections personnel and courses and tuition students at such courses.

We believe the concerns of this observation can be effectively addressed through protocol and will work with the Corrections Advisory Committee and the Association of Counties to adopt such protocol.

LBA Rejoinder:

RSA 100-A:1, VII(c) requires PSTC approval for a course of training for county correctional officers. Rules are needed to implement this because statute is silent on the process. The exemption of RSA 106-L found in RSA 541-A only includes “state” corrections personal, not county. Although RSA 541-A:21(s) does exempt PSTC from having to adopt administrative rules under RSA 106-L:5, VI relative to establishing “entrance, student conduct, and curriculum requirements for preparatory, in-service, and advanced courses and programs for schools operated by or for the state or its political subdivisions for the specific purpose of training police, state corrections, or state probation-parole recruits or officers or tuition students at such programs[,]” it does not address county corrections personnel. [emphasis added] The PSTC is mistaking the actual statutory language of RSA 106-L:5 VI with a short description of it found in RSA 541-A. Therefore, we still hold that statute requires an approval by the PSTC of a course of training for county correctional officers, the details of which must be in rule because they will be requirements binding on persons outside of the PSTC.

Meetings

Public regularity bodies, such as the 14 member PSTC and any authorized subcommittee, had a responsibility to hold public meetings in accordance with the State laws requiring transparency, ethical conduct, and due process. The Right-to-Know law existed to ensure public business was transparent and only allowed non-public sessions in certain scenarios. In addition, the statutory requirement to file statements of financial interest was to ensure the performance of official duties by public officials would not give rise to any conflicts or potential conflicts of interest because conflicts would be publically disclosed. Observation Nos. 13, 14, 15, and 16 discuss PSTC areas where the PSTC can improve compliance regarding either the Right-to-Know law, or other statutes related to quorum, financial disclosure, and recusal practices.

Observation No. 13

Ensure Proper Authority To Enter Non-public Session

We question whether the PSTC used the Right-to-Know law exemptions as intended by the Legislature. There are two provisions of the State’s Right-to-Know law the PSTC used during the audit period to enter into non-public sessions: the personnel provision (RSA 91-A:3,II(a)) and the reputation provision (RSA 91-A:3, II(c)). The personnel provision allows meetings to be held in non-public settings when:

The dismissal, promotion, or compensation of **any public employee** or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted. [emphasis added]

The PSTC used this provision up until April 2017 when they examined their practices because of a Right-to-Know request. PSTC members, in attempting to invoke RSA 91-A to enter into non-

public session simply gave “personnel” as the reason for entering into non-public session. We noted this invocation was used regardless of the type of matter before the PSTC. For example, the PSTC invoked the personnel provision to enter into non-public sessions when officers faced possible decertification due to criminal accusations against or convictions of officers and for PSTC rule violations such as history of illegal drug activity.¹ Where the personnel provision was referenced, it was unclear in reading statute or Department of Justice (DOJ) guidance, whether the PSTC’s use of this provision was valid as there does not appear to be an employer-employee relationship between the PSTC and officers it regulates. Although the language in statute included “any public employee,” it was unclear whether a direct employer-employee relationship was required for the PSTC to cite this exemption from public session.

The PSTC’s interpretation of a public employee’s exemption from public session was not universally recognized or implemented by other State regulatory bodies. For example, the Office of Professional Licensure And Certification management reported no knowledge of any instance where a public employee with an occupational license was granted a non-public session under the personnel exemption provision of the Right-to-Know law.

The reputation provision of the Right-to-Know law, which was also used by the PSTC, states non-public sessions may be held when, “Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting.” Here, beginning in April 2017, the PSTC began citing the reputation provision for entering into non-public sessions, but the PSTC still did not distinguish its handling of disciplinary matters from mere ministerial proceedings.

DOJ training materials informed regulatory bodies that matters pertaining to an investigation or receiving a complaint can be discussed in non-public session. However, unless specifically exempt from a public session, the hearing to adjudicate the investigated complaint was generally required to be public. The PSTC cited the exemption in disciplinary hearings, including instances where the certification holder had been indicted or convicted of a crime in an open court and in instances where an investigation had concluded that misconduct of the certification holder had occurred. Since all negative facts before a regulatory body could result in an adverse impact to a regulated individual’s reputation, the PSTC’s broad use of this statutory exemption from public session may be inconsistent with DOJ guidance.

By not ensuring proper authority to enter non-public session, the PSTC may have improperly limited the public’s access to State business.

¹ We note the history of illegal drug activity should most likely be exempt from public disclosure but it should fall under the reputation provision.

Recommendations:

We recommend the PSTC work with DOJ to develop policies and procedures to ensure proper authority is cited when entering into non-public session for the frequent scenarios before the PSTC.

The Legislature may wish to clarify whether exemption from a public setting under RSA 91-A:3, II(a) is for the protection of any public employee before any public body or whether an employer-employee relationship is required.

Auditee Response:

We concur with the recommendations.

The Non-Public Session Worksheet used by the Council to ensure proper authority is cited when entering into non-public session has been updated with the assistance of counsel.

Observation No. 14

Disclose Financial Interests And Ensure Quorum Requirements Are Met

The PSTC lacked policies and procedures to consistently ensure: 1) PSTC members filed required statements of financial interest, and 2) the necessary quorum requirement to hold a valid meeting was met. We found the 28 PSTC members or designees filed 43 of the 59 (72.8 percent) required statements of financial interest during the audit period. Further, of the 28, nine had not filed an initial statement of financial interests before participating in Council activities. As a result, PSTC members without a statement of financial interest on file, and therefore potentially ineligible to serve, voted at six of the 24 (25.0 percent) PSTC meetings during the two-year audit period where their attendance was required to achieve quorum. Disclosure may have been difficult for PSTC attendees only participating infrequently as a designee for another PSTC member.

Although filing was an individual responsibility of each PSTC member, the PSTC was collectively responsible for ensuring a quorum was met to hold a valid meeting. In the six meetings that may not have reached quorum requirements, the following actions were taken: five certification suspensions, 16 certification approvals, five training grant approvals, and one certification revocation. Additionally, two of the 18 (11.1 percent) meetings with a quorum of eligible members involved a recusal where one out of eight eligible members exited the meeting during a hearing which may have further compromised the validity of those specific actions. Consequently, these actions taken by the PSTC with ineligible members may be subject to invalidation by a court.

Statutory Ambiguity

In October 2018, the Department of Justice provided an opinion that decisions made by public officials who failed to file their annual financial disclosures pursuant to RSA 15-A:6 are not voidable. Eligibility to serve was only contingent upon public officials successfully filing an initial financial disclosure and eligibility to serve was not impacted by a lack of subsequent annual financial disclosures. However, we have historically understood the statutory provision determining eligibility to serve to be contingent on both the public official's initial filing and subsequent annual filings. Because the courts have not addressed this issue, we still conclude actions taken by public officials who failed to file their annual financial disclosure pose a risk of being questioned.

Recommendations:

We recommend the PSTC develop policies and procedures to ensure:

- **compliance with the financial disclosure statute and periodically review members' compliance; and**
- **only eligible members conduct PSTC business.**

We also suggest the Legislature consider clarifying RSA 15-A:6 regarding whether failure to file annual financial disclosures should prohibit public officials from serving in their appointed capacity.

Auditee Response:

We concur with the recommendations.

Council members will be provided copies of the Financial Disclosure Form during the regular council meeting each December. Once completed the members will submit the disclosure to the Secretary of State and will be asked to provide a copy to council staff for filing at PSTC.

Observation No. 15

Formally Adopt PSTC Recusal Practices

The PSTC lacked policies and procedures to ensure PSTC members consistently avoided potential conflicts of interest while performing their duties. The PSTC was responsible for establishing ethical standards and codes of conduct for avoiding conflicts of interest. During the audit period, PSTC members frequently encountered situations that created a potential conflict of interest. While the PSTC members frequently took action to avoid potential conflicts by recusing themselves from the meeting or abstaining from voting, we found practices were inconsistent.

For example:

- PSTC members involved in the criminal adjudication process of an officer inconsistently recused themselves from the hearings conducted by the PSTC;
- actions to discipline a subordinate officer of a PSTC member holding a law enforcement position inconsistently resulted in the PSTC member either recusing by leaving the room or abstaining from a vote; and
- actions to grant time extensions to complete a PSTC requirement for officers who were a subordinate of a PSTC member inconsistently resulted in the PSTC member either recusing, abstaining, or voting.

Ethical guidelines are integral to good management and promote a fair and consistent process to adjudicate matters before the PSTC. Although the PSTC set ethical standards by adopting a conflict of interest policy for PSTC staff, the policy was not comprehensive and did not address PSTC members.

Recommendation:

We recommend the PSTC adopt formal recusal practices in policy by defining potential conflicts of interest for PSTC members and determining when a recusal from the meeting or abstention from voting is the appropriate remedy to avoid a potential conflict.

Auditee Response:

We concur with the recommendation.

We will adopt a Conflict of Interest and Recusal Policy consistent with the Executive Branch Ethics Committee rule on recusal, Eth 204.02.

Observation No. 16

Ensure Corrections Advisory Committee Complies With Statute

The PSTC lacked policies and procedures to ensure the Corrections Advisory Committee (Committee) fulfilled statutory requirements. The Committee was established by statute to advise the PSTC on correctional standards and training issues. During the audit period, the PSTC worked to fill the Committee with specified members and only conducted one meeting. We found the Committee, which was still being developed, was not compliant with statute in the following areas:

- the Commissioner of the Department of Corrections was included as member of the Committee without statutory authorization as a Committee member,
- Committee members delegated designees without authority in statute,
- the Committee meeting was reportedly not publicly posted, and

- one member of the committee required to file a statement of financial interest as a non-State employee did not properly file the disclosure.

Public bodies created in statute were required to follow their statutory authorization and adhere to other applicable State laws, thereby ensuring proper governance. However, the fact that it was newly formed may have made it difficult to ensure the first Committee meeting was fully compliant.

Recommendation:

We recommend the PSTC develop policies and procedures to ensure the Committee consistently complies with statute and continues its efforts to utilize the Committee.

Auditee Response:

We concur with the recommendation.

We will draft policies and procedures to ensure the committee complies with statute, including committee membership, frequency of meetings, and posting of meetings.

**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

OTHER ISSUES AND CONCERNS

In this section, we present an issue we considered noteworthy, but did not develop into a formal observation. The Police Standards and Training Council (PSTC) and the Legislature may wish to consider whether this issue deserves further study or action.

Consider Increasing Physical Fitness Minimum Standard

We generally found the PSTC development and implementation of physical fitness standards for law enforcement officers consistent with statute yet it is less than some neighboring states.

Physical Fitness Testing

The physical fitness standard implemented by the PSTC measured an individual's physical fitness relative to the general population of the same age group and gender, according to studies conducted by the Cooper Institute for Aerobic Research (Cooper). The battery of physical fitness tests included sit-ups, pushups, and a 1.5 mile run. The physical fitness testing was not designed to exactly demonstrate an officer's ability to perform specific job tasks, in contrast to an agility test of realistic law enforcement job functions. However, the Cooper standards found the three fitness tests selected by the PSTC were 75 to 95 percent predictive of the job performance of a law enforcement officer.

By implementing a fitness test and not a physical agility test, they fulfilled their statutory requirement. Statute specifically required a physical fitness test and the enabling legislation stated the purpose of the law was to produce healthier law enforcement officers with a level of physical fitness capable of performing strenuous tasks. Additionally, since the Cooper standards reported the physical fitness tests correlates to the job performance of the law enforcement officers, the physical fitness tests appeared to be an effective substitute for an agility test.

Minimum Standard

The PSTC required law enforcement officers to achieve the minimum fitness score defined as the 35th percentile normed for age and gender, according to the Cooper standards. Therefore, all certified officers were able to demonstrate a level of physical fitness better than 34 percent of their peers in age and gender. The Cooper standards categorized the 35th percentile as "poor" physical fitness, slightly below a "fair" physical fitness rating. However, this was only the minimum standard and certified officers were likely capable of achieving a score better than "poor" physical fitness.

Neighboring states, such as the States of Maine, Rhode Island, Connecticut, and Vermont, made minimum police officer fitness testing requirements higher than the 35th percentile of the Cooper standards. This slightly higher standard was categorized as "fair" physical fitness by Cooper.

Although these states had more stringent physical fitness standards to enter the profession, unlike New Hampshire, these states did not implement a State-wide ongoing physical fitness standard.

We suggest the PSTC consider slightly increasing the standard for fitness testing to ensure all officers demonstrate an acceptable level of physical fitness.

Auditee Response:

We do not concur. The fitness requirement is a minimum standard to maintain law enforcement certification and employment. Although neighboring states may have slightly higher fitness standards to enter the profession, they do not require officers to maintain that standard throughout their careers. New Hampshire requires officers to meet a minimum entrance standard, provides a rigorous training program throughout the full time police and corrections academies encouraging lifetime fitness, and requires officers to maintain the minimum fitness standard throughout their careers. The New Hampshire requirement of maintaining minimum fitness standards throughout an officer's career goes well beyond requirements of our neighboring states.

**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

**APPENDIX A
SCOPE, OBJECTIVES, AND METHODOLOGY**

Scope And Objectives

In December 2017, the Fiscal Committee of the General Court adopted a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Police Standards and Training Council (PSTC). The entrance conference with the PSTC was held in May 2018 and the oversight committee approved the scope of the audit in July 2018.

Our audit was designed to answer the following question:

Did the PSTC operate efficiently and effectively during State fiscal years 2017 and 2018?

To answer this question, we evaluated PSTC administration and enforcement of professional law enforcement standards and operation of training programs for police, corrections, and probation-parole officers.

Methodology

To gain an understanding of the PSTC and its operating, control, and regulatory environments, we:

- reviewed State laws, administrative rules, PSTC public and non-public minutes, policies and procedures, budget and financial documents, forms, website, organization charts, management and annual reports, IT Plans, prior Legislative Budget Assistant audits and similar audits from other states, and relevant news articles and studies;
- reviewed law enforcement standards from the Commission on Accreditation for Law Enforcement Agencies, International Association of Directors of Law Enforcement Standards and Training , and the Cooper Institute’s Physical Fitness Standards;
- interviewed PSTC management and key stakeholders;
- attended a PSTC meeting; and
- reviewed PSTC management controls.

To determine how efficient and effective the PSTC was in State fiscal years (SFY) 2017 and 2018 and to test relevant internal controls, we:

- examined PSTC compliance with RSA 91-A, RSA 541-A, RSA 15-A, and quorum requirements;
- analyzed PSTC academy curriculum and lesson plans;
- examined PSTC maintenance operations ;
- interviewed PSTC management and staff, cadres, and representatives from other State agencies (Department of Justice, Office of Professional Licensing, and the Department of Administrative Services);

- reviewed PSTC training files and discipline files to assess PSTC compliance with its own rules and standards;
- reviewed certification database for efficiency and effectiveness in supporting the operation;
- analyzed course evaluations completed by students; and
- assessed PSTC administrative operations as well as the complaint, officer certification, and enforcement processes.

Surveys

We conducted two surveys in support of the audit's objectives.

Law Enforcement Agency Survey

To obtain feedback from law enforcement officials, we sent email invitations to complete a web-based survey to 229 active New Hampshire law enforcement agencies with certified law enforcement officers in August 2018. Email addresses were obtained from PSTC records and public sources. We received 108 completed responses for a 47.2 percent response rate.

The results are in Appendix C.

PSTC Academy Graduate Survey

To obtain feedback from PSTC academy graduates, we sent a web-based survey link to the last known work address of 98 New Hampshire police officers, corrections officers, and probation-parole officers who graduated from a PSTC academy during SFY 2017. We received 30 completed responses for a 30.6 percent response rate.

The results are in Appendix D.

PSTC File Reviews

We reviewed two different types of files held at the PSTC: 1) discipline files, and 2) training and certification files.

Discipline Files

We reviewed public and non-public PSTC meeting minutes to identify disciplinary cases presented to the PSTC during the audit period. We identified 39 individuals with cases brought before the PSTC during the audit period. Twenty-one individuals had underlying criminal matters that prompted the disciplinary hearing before the PSTC and 11 individuals had proceedings before the PSTC due to non-criminal violations of PSTC administrative rules. Seven cases coming before the PSTC were for various petitions or requests for waivers from administrative rules. We reviewed all the files for compliance with RSA 91-A and law enforcement agency compliance with PSTC reporting requirements and timeliness of notice of hearing to the officer.

Training And Certification Files

We randomly selected 50 officers out of the 1,046 officers who were reported as newly hired during the audit period as of July 2018. We reviewed the training and certification files of these 50 officers to determine whether PSTC forms were completed and submitted by law enforcement agencies and acted on timely by the PSTC and general compliance with administrative rules and statutes. We estimated a sample size of 50 officers out of a population size of 1,046 would give us at least a confidence level of 85 percent with a 10 percent margin of error. Additionally, using the randomly selected sample of 50 officers, we matched the officers in those files to a total of 38 unique law enforcement agencies required to submit annual affidavits. These files were also reviewed for general compliance with rules and statutes. Our analysis focused on compliance and was not projected back to the entire population of newly hired officers.

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**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

**APPENDIX B
AGENCY RESPONSE TO AUDIT**



Chief David P. Cahill
Chairman

**State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
ARTHUR D. KEHAS
LAW ENFORCEMENT TRAINING FACILITY & CAMPUS
17 Institute Drive — Concord, N.H. 03301-7413
603-271-2133 FAX 603-271-1785
TDD Access: Relay NH 1-800-735-2964**



Donald L. Vittum
Director

January 23, 2019

Stephen C. Smith, MS, CPA
Director of Audits
Legislative Budget Assistant – Audit Division
107 North Main Street
State House Room 102
Concord, NH 03301

Re: Performance Audit
Police Standards and Training Council

Dear Director Smith:

Thank you for the opportunity to respond to the recommendations contained in the Police Standards and Training Council Performance Audit Report. We welcomed the outside review of our operation and found it helpful in identifying areas that may be improved upon to enhance our efficiency and effectiveness. The audit team spent several months conducting a comprehensive review of the Police Standards and Training Council, resulting in 16 observations and recommendations. We concur with the majority of the observations and will work towards implementation of the recommendations.

The auditors, John Clinch and Mark Manganiello were respectful, accommodating, and willing to listen to our point of view. They worked well with us and we appreciate their professionalism.

If you have any questions or concerns, feel free to contact me at Donald.L.Vittum@pst.nh.gov, or at 603-271-1793, or contact Executive Officer Tim Merrill at Timothy.J.Merrill@pst.nh.gov or 603-271-1790.

Sincerely,

A handwritten signature in blue ink that reads "Donald L. Vittum".

Donald L. Vittum
Director

DLV/tm

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**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

**APPENDIX C
SURVEY OF LAW ENFORCEMENT AGENCIES**

We sent surveys to 229 active Law Enforcement Agencies with certified law enforcement officers. We received 108 complete responses for a 47.2 percent response rate. We combined and simplified similar answers to open-ended questions and presented them in topical categories; multipart responses were counted in multiple categories where applicable. Some totals in the following tables may not add up to 100 percent due to rounding or where respondents could respond multiple times to the same question.

Question 1. How many PSTC certified officer(s) does your agency currently employ?		
Answer Options	Count	Percent
1-10	56	51.9
11+	52	48.1

respondent answered question **108**
respondent skipped question **0**

Question 2. Has your agency sent at least one recruit to either the full-time, part-time, or corrections academy at the PSTC since July 1, 2016?		
Answer Options	Count	Percent
Yes	74	68.5
No	34	31.5

respondent answered question **108**
respondent skipped question **0**

Question 3. Overall, how satisfied is your agency with the quality of training your agency's recruit(s) received?		
Answer Options	Count	Percent
Very satisfied	38	51.4
Somewhat satisfied	25	33.8
Neither satisfied nor dissatisfied	6	8.1
Somewhat dissatisfied	3	4.1
Very dissatisfied	1	1.4
Don't know/No opinion	1	1.4

respondent answered question **74**
respondent skipped question **34**

Question 4. Briefly explain why your agency was dissatisfied by the training your agency's recruit(s) received.

Comments	Count
Style of the academy.	2
Addition of weeks.	1
Officers are unprepared to conduct basic investigations and assume their duties without an extensive field training program.	1
Low hours are spent on race issues, mental health, and community relations.	1
Improve leadership of the PSTC.	1
<i>provided comment</i>	4

Question 5. How satisfied is your agency with the efficiency of the academy to make the best use of your recruit's time while at the academy?

Answer Options	Count	Percent
Very satisfied	34	45.9
Somewhat satisfied	25	33.8
Neither satisfied nor dissatisfied	9	12.2
Somewhat dissatisfied	2	2.7
Very dissatisfied	1	1.4
Don't know/No opinion	3	4.1

respondent answered question **74***respondent skipped question* **34****Question 6. Briefly explain why your agency was dissatisfied by the efficiency of the PSTC to train your recruit(s).**

Comments	Count
Physical type training should be conducted at the academy and academic training should be done online.	1
Recent graduates indicated too much time was spent on nonessential subjects and not enough time on critical law enforcement functions.	1
The recruits were sent home during adverse weather conditions and should have stayed to train in adverse weather conditions.	1

*provided comment***3****Question 7. Does your agency have any suggestions to improve the full-time, part-time, or corrections academy?**

Answer Options	Count	Percent
No	40	54.1
Yes	34	45.9

respondent answered question **74***respondent skipped question* **34**

Question 7. Text Responses, Suggestions:	Count
Revise curriculum (e.g., get back to basics, decrease paramilitary style, CPR training, report writing, driver training, scenario based information gathering and report writing, active shooter training).	6
More hands-on scenario/tactical-based training.	4
Improve part-time academy (e.g., add Field Sobriety and Radar Certification, more in-house instructors, one additional class each year).	3
Update curriculum to match current issues in law enforcement.	3
Expand the capacity of the full-time academy.	2
Partner with a college or university.	2
Improve PSTC management and staff.	2
Improve policies to limit recruit overtime issues.	2
Better communicate information to agencies.	2
Remain a residential academy, but shorten the number of weeks using alternative teaching methods.	2
Decision to expand the academy and its effectiveness is questioned.	2
Mandate firearms instructors assist with the recruit academy and not mandate that they attend a separate training to use the simulator and range.	1
Let the administration train officers and not worry about politics.	1
Faster notification of acceptance or denial.	1
One standard fitness test that is equal for both genders.	1
Examine alternative methods of learning.	1
Increase efficiency with time management and make better use of down time.	1
Consider overnights to be optional and not mandatory.	1
Increase transparency with how council members are appointed.	1
Improve consistency of instruction.	1
<i>provided comment</i>	34

Question 8. Has your agency used the in-service training provided by the PSTC since July 1, 2016?		
Answer Options	Count	Percent
Yes	100	92.6
No	8	7.4

respondent answered question

108

respondent skipped question

0

Question 9. How satisfied is your agency with the quality of the in-service training your officer(s) received?		
Answer Options	Count	Percent
Very satisfied	40	40.0
Satisfied	41	41.0
Somewhat satisfied	8	8.0
Neither satisfied nor dissatisfied	7	7.0
Somewhat dissatisfied	2	2.0
Very dissatisfied	2	2.0
Don't know/No opinion	0	0.0

respondent answered question **100**

respondent skipped question **8**

Question 10. Briefly explain why your agency was dissatisfied by the in-service training your officer(s) received.	
Comments	Count
Course offerings did not meet the needs of more experienced officers.	3
The course offerings have diminished significantly and the process for enrolling individuals in training is outdated and should be computer generated.	1
Instructors often lack the subject matter expertise needed and the PSTC has abandoned bringing in outside experts due to cost.	1
Amount of hours required for ongoing officer certifications is poor, at best. The Academy should be mandating and fighting for annual certification levels with required courses (patrol officer; first line supervisor; middle manager; executive, etc.).	1

provided comment **4**

Question 11. Do you have any suggestions for improving the in-service training provided by the PSTC?		
Answer Options	Count	Percent
No	56	56.0
Yes	44	44.0

respondent answered question **100**

respondent skipped question **8**

Question 11. Text Responses, Suggestions:	Count
Increase course offerings.	15
Increase training for more experienced officers.	8
Increase frequency of Field Training Officer (FTO) classes.	5
Increase class frequency and availability generally.	5
Increase outside instructors.	4
Increase on-line classes.	4
Increase resources for in-service training.	4
Update training generally.	3
Ask law enforcement agencies what they want through outreach	2

efforts.	
More training in the northern part of New Hampshire.	2
Partner with a university for adult learning methodology.	1
Increase enrollment periods to reduce class cancelations.	1
Improve online processes for enrollment, online marketing of classes, and compatibility of website with mobile devices.	1
Mandate an annual law update class for all in-service officers like Massachusetts.	1
Allow outside agency firearms training to be credited with the PSTC.	1
Establish certification levels for various positions and require more hours annually.	1
Establish permanent driving courses and permanent “shoot houses” in the State.	1
All trainings have been very good.	1

provided comment **44**

Question 12. Over the past five years, have you or one of your officers had to interact with the PSTC to address an alleged violation of PSTC standards?

Answer Options	Count	Percent
Yes	23	21.3
No	85	78.7

respondent answered question **108**

respondent skipped question **0**

Question 13. Overall, do you feel the PSTC addressed the alleged violation in a fair manner?

Answer Options	Count	Percent
Yes	15	65.2
No	7	30.4
Don't know	1	4.3

respondent answered question **23**

respondent skipped question **85**

Question 14. Briefly explain why you felt the PSTC was unfair in how it handled the alleged violation.

Comments	Count
Inconsistent treatment of officers.	3
Excessive reaction/punishment to minor alleged violation.	2
Failed to return phone calls.	1
“Holier than thou” attitude.	1
The investigation was poorly conducted.	1

provided comment **7**

Question 15. How satisfied are you with the PSTC's efforts to enforce professional standards to ensure the law enforcement profession is held to high ethical standards?

Answer Options	Count	Percent
Very satisfied	59	54.6
Somewhat satisfied	23	21.3
Neither satisfied nor dissatisfied	10	9.3
Somewhat dissatisfied	7	6.5
Very dissatisfied	2	1.9
Don't know/No opinion	7	6.5

respondent answered question **108**

respondent skipped question **0**

Question 16. Briefly explain why you were dissatisfied with the PSTC's efforts to enforce professional standards.

Comments	Count
Politics appear to influence decision making.	2
The PSTC is too lax.	2
Loopholes exist in PSTC monitoring activities.	2
The physical fitness test is burdensome.	1
The PSTC needs the authority to take a firm stance against officers who violate the standards.	1
No standards are kept across the board.	1
There are too many questionable people passing the PT test.	1
I don't think it's their role or place once a candidate graduates.	1

provided comment **9**

Question 17. How satisfied are you with the PSTC's efforts to improve the public's trust in the law enforcement profession?

Answer Options	Count	Percent
Very satisfied	58	53.7
Somewhat satisfied	21	19.4
Neither satisfied nor dissatisfied	20	18.5
Somewhat dissatisfied	2	1.9
Very dissatisfied	0	0.0
Don't know/No opinion	7	6.5

respondent answered question **108**

respondent skipped question **0**

Question 18. Briefly explain why you were dissatisfied with the PSTC's efforts to improve the public's trust in the law enforcement profession.

Comments	Count
I have not seen anything that indicates the Council has publicly made an effort to improve public trust.	1
I don't know what they have done.	1

provided comment **2**

Question 19. Between July 1, 2016 and June 30, 2018, did your agency hire one or more officers?		
Answer Options	Count	Percent
Yes – including at least one officer who was uncertified prior to being hired.	76	70.4
Yes – but only officers who were already certified in New Hampshire.	16	14.8
No	16	14.8
respondent answered question		108
respondent skipped question		0

Question 20. Did the previously uncertified officer(s) your agency hired receive a drug screening from a licensed physician?		
Answer Options	Count	Percent
Yes – every officer who was previously uncertified receives a drug screening from a licensed physician.	54	71.1
No – at least one previously uncertified officer did not receive a drug screening from a licensed physician.	6	7.9
No – my agency never requires a drug screening from a licensed physician for previously uncertified officers.	16	21.1
respondent answered question		76
respondent skipped question		32

Question 21. Did the previously uncertified officer(s) your agency hired receive a psychological screening test administered under the direction of a licensed psychologist or psychiatrist?		
Answer Options	Count	Percent
Yes – every officer who was previously uncertified receives a psychological screening test administered by a licensed psychologist or psychiatrist.	65	85.5
No – at least one previously uncertified officer did not receive a psychological screening test administered by a licensed psychologist or psychiatrist.	7	9.2
No – my agency never requires a psychological screening test administered under the direction of a licensed psychologist or psychiatrist for previously uncertified officers.	4	5.3
respondent answered question		76
respondent skipped question		32

Question 22. Did your agency perform a background investigation for all officer(s) hired since July 1, 2016?

Answer Options	Count	Percent
Yes – every new officer receives a background investigation.	91	98.9
No – at least one officer did not receive a background investigation.	1	1.1
No – my agency did not conduct any background investigations for newly hired officers.	0	0.0

*respondent answered question***92***respondent skipped question***16****Question 23. At any point during the background investigation did the lack of cooperation from a third-party make it impossible for you to obtain all the information required to complete the background investigation effectively?**

Answer Options	Count	Percent
Yes	7	7.6
No	78	84.8
Don't know	7	7.6

*respondent answered question***92***respondent skipped question***16****Question 24. Please select all the type of third-party organizations or individuals where you experienced a lack of cooperation during the background investigation process. (Please select all that apply.)**

Answer Options	Count	Percent
Federal government agency (e.g., Federal Bureau of Investigation)	1	14.3
Law enforcement agency based in New Hampshire (State, county, or local)	2	28.6
Law enforcement agency in a state outside of NH (State, county, or local)	2	28.6
Private organization	4	57.1
Private individual	2	28.6
Foreign government agency	0	0.0
Other (please explain)	2	28.6

*respondent answered question***7***respondent skipped question***101**

Question 24. Text Responses, Other:	Count
Hospitals.	1
State Police refuse to allow us to view certain files.	1

*provided comment***2**

Question 25. Does your agency have any suggestions to improve the background investigation process?

Answer Options	Count	Percent
No	84	91.3
Yes	8	8.7

*respondent answered question***92***respondent skipped question***16**

Question 25. Text Responses, Suggestions:	Count
Add or improve in-service training on conducting background investigations.	2
Standardize and centralize background investigations by conducting them by the State and not individual agencies.	2
Some agencies submit false forms, not complying with the rules on background checks, and the PSTC does not conduct audits.	1
PSTC should implement a system similar to the Fire Academy, which provides a list of all potential candidates that have met the basic criteria.	1
Most individuals hired have limited work history.	1
Concerned about the political environment.	1
Do away with useless psychological evaluations.	1

*provided comment***8****Question 26. Could the PSTC's initial academy application process be more streamlined or efficient?**

Answer Options	Count	Percent
No	70	76.1
Yes (please explain)	22	23.9

*respondent answered question***92***respondent skipped question***16**

Question 26. Text Responses, Explain:	Count
On-line or all electronic form submission.	13
Consolidate and simplify forms.	4
No suggestion.	2
Small agency schedules need earlier confirmation.	1
It is difficult for small agencies to meet some of the deadlines for acceptance into the academy.	1
First come, first served.	1
Eliminate subjective physical training standards.	1

*provided comment***22**

Question 27. Are you aware of any significant weaknesses in the certification process that would allow an unqualified officer to receive certification?

Answer Options	Count	Percent
Yes	10	9.3
No	98	90.7

*respondent answered question***108***respondent skipped question***0****Question 28. Briefly explain the weaknesses in the certification process you believe would result in an unqualified officer receiving certification.**

Comments	Count
The academy is too lax.	2
No audits are being performed on background investigations.	2
Standardize psychological evaluation process.	1
The absence of a central records system for applicants gives too much wiggle room.	1
Academy needs more ability to enforce standards.	1
Improve the review process of terminated officers to assess for decertification.	1
Find a better way to give 3 year physical training test.	1
Increase the recognition of military training as a substitute for the academy, so these recruits would just need to take the law package.	1
Little is done for screening of part-time officers who do not carry.	1

*provided comment***10****Question 29. Do you have any suggestion to improve the application process that has not been discussed?**

Answer Options	Count	Percent
No	102	94.4
Yes (please explain)	6	5.6

*respondent answered question***108***respondent skipped question***0**

Question 29. Text Responses, Suggestions:	Count
Digital methods to submit forms.	2
Let the agency do the hiring.	1
Require all recruits to be hired as salaried employees until the end of the academy to avoid issues with overtime.	1
The 30 day window to maintain certification should be longer.	1
During pre-academy PT, advise candidate of any unacceptable performance.	1

*provided comment***6**

Question 30. Do you believe the PSTC provides preferential treatment to some agencies over others?

Answer Options	Count	Percent
Yes	34	31.5
No	74	68.5

respondent answered question **108**

respondent skipped question **0**

Question 31. How satisfied are you with the PSTC's efforts to solicit input and receive feedback from your law enforcement agency on the operations of the PSTC?

Answer Options	Count	Percent
Very satisfied	40	37.0
Somewhat satisfied	17	15.7
Neither satisfied nor dissatisfied	27	25.0
Somewhat dissatisfied	11	10.2
Very dissatisfied	6	5.6
Don't know/No opinion	7	6.5

respondent answered question **108**

respondent skipped question **0**

Question 32. Briefly explain why you were dissatisfied with the PSTC's efforts to solicit input and receive feedback from law enforcement agencies.

Comments	Count
Non-existent, infrequent, or insufficient effort to solicit input.	13
The PSTC is not interested in the opinion of all agencies.	4
I feel like I am always looked down upon.	1

provided comment **17**

respondent skipped question **91**

Question 33. Overall, was the PSTC effective at ensuring officers met minimum standards required of law enforcement officers?

Answer Options	Count	Percent
Yes	103	95.4
No	5	4.6

respondent answered question **108**

respondent skipped question **0**

Question 34. Overall, do you have any suggestions on how operations could be improved at the PSTC?

Answer Options	Count	Percent
No	78	72.2
Yes (please explain)	30	27.8

respondent answered question **108**

respondent skipped question **0**

Question 34. Text Responses, Suggestions:	Count
Change the model or style of the academy by either: making it a part of the college, have instructors with recent field experience, streamline for officers who don't carry a gun, consider tuition based academy, and decrease tests.	5
Improve use of technology.	4
Improve enforcement of high standards.	4
Treat agencies of different sizes fairly.	3
Improve course offerings (e.g., focus on criminal investigations, cut out patrol, cut out driving, increase seasoned officer classes, increase hands-on training).	3
Conduct an in-depth and formal review of PSTC management.	2
Modify standards (e.g., develop an alternative to physical fitness testing or don't require part-time officers to attend the entire full-time academy).	2
Increase resources.	1
The building is dirty.	1
Improve performance evaluations of recruits.	1
Find a way to utilize "quiet time" on a voluntary basis.	1
Address staff turnover issues.	1
The public is not aware of PSTC's work to enforce standards.	1

provided comment **30**

Question 35. Do you have anything else to add that will help us better understand the Police Standards and Training Council?		
Answer Options	Count	Percent
No	86	79.6
Yes	22	20.4

respondent answered question **108**

respondent skipped question **0**

Question 35. Text Responses, Other:	Count
Overall positive comments about the PSTC.	4
Positive statements about the model of the academy.	4
Positive comments about PSTC management/staff.	4
Lax fitness standards or make job-based.	2
Frequency of course offerings is critical to my agency.	2
Concerned about the political environment of the PSTC in which the PSTC operates.	2
Part-time officers should get in-depth training on Driving Under the Influence situations.	1
The residential model of the academy, teaching methods, and poor website functionality is outdated.	1
Focus should be spent if the Field Training Officers are satisfied with the academy.	1

Increase resources.	1
Staffing is in need of a leadership boost and an increase in staffing is critical. Adjuncts need to be vetted, standardized, and paid. Classrooms and buildings need upgrading for an enhanced educational environment. Collaboration with other academies throughout the country may assist in developing ideas and enhancing efficiency, along with professional development of existing staff. The Council deals with more extensions/administrative requests, which could be handled more effectively. Also, their focus could be more succinct and focused on training and evaluation. The Academy lacks vision and needs effective leadership for the staff.	1
I worry about how management treats staff. There are a few staff members with little road experience or who have been out of the field for decades. Some of their techniques and tactics are not effective. The academy has an unspoken "If something goes wrong, this can't come back to bite us" curriculum. I don't even think they do it on purpose, rather it's their paradigm. Personally, I've been disappointed in the lack of substance in many classes, which are always followed by a test. I have had good experiences when they sub-out classes such as FBI classes, etc. a common quote heard throughout the State is, "Just get through the academy and we'll teach you how to be a cop when you get out."	1
Meetings should broadcast live via a web interface.	1
Less essential classes should be done via satellite.	1

provided comment 22

Question 36. If you would like to receive a link to our report when it becomes public, please provide the email address where you would like to receive the link. (We will not report or retain this email address after the report is made public.)

Answer Options	Count	Percent
No, thank you.	45	41.7
Yes (please provide e-mail address).	63	58.3

respondent answered question 108

respondent skipped question 0

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**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

**APPENDIX D
SURVEY OF PSTC ACADEMY GRADUATES**

We sent a letter containing a link to a web survey to the last known work address of 98 New Hampshire police officers, corrections officers, and probation-parole officers who graduated from a Police Standards and Training (PSTC) academy during State fiscal year 2017. We received 30 complete responses for a 30.6 percent response rate. We combined and simplified similar answers to open-ended questions and presented them in topical categories; multipart responses were counted in multiple categories where applicable. Some totals in the following tables may not add up to 100 percent due to rounding or where respondents could respond multiple times to the same question.

Question 1. Which academy did you attend during the period of July 1, 2016 to June 30, 2017?		
Answer Options	Count	Percent
Police Academy (Full-Time)	20	66.7
Police Academy (Part-Time)	5	16.7
Corrections/Probation-Parole Academy	5	16.7
<i>respondent answered question</i>		30
<i>respondent skipped question</i>		0

Question 2. Overall, how satisfied are you with the quality of training you received from the PSTC?		
Answer Options	Count	Percent
Very satisfied	8	26.7
Somewhat satisfied	13	43.3
Neither satisfied nor dissatisfied	0	0.0
Somewhat dissatisfied	5	16.7
Very dissatisfied	4	13.3
Don't know/No opinion	0	0.0
<i>respondent answered question</i>		30
<i>respondent skipped question</i>		0

Question 3. Briefly explain why you are dissatisfied with the training you received from the PSTC academy.	
Not enough practical/hands on time.	4
Too much down time/Time not used effectively.	3
Only touched briefly on basics.	2
Old school 'basic training' attitude was not a good fit for a large part of the content. More focus was on assimilating to the academy way as opposed to how to interact with the public in a safe and effective manner. Staff and facility were taxed trying to manage the logistics of too many students.	1
The training I received from PSTC was rushed and they always stated how there was not enough time.	1

The mental toughness aspect was very easy coming from a military background. It almost felt as if I was in more of a college setting due to the lack of disciplinary techniques. The academic structure was good.	1
What I learned in my 12 weeks of field training was much more useful than 16 weeks here.	1
Many of the instructors are not actually police officers and are unable to answer questions about patrol or investigative duties. Also, morale is usually low due to excessive rules and instructors who ask recruits to lie on their account.	1
It's a bad and uncomfortable feeling when a student leaves the academy feeling like they have not been trained to succeed and only trained to standard.	1

provided comment 8
did not provide comment 22

Question 4. How satisfied are you with the efficiency of the academy in making the best use of your time while at the academy?		
Answer Options	Count	Percent
Very satisfied	6	20.0
Somewhat satisfied	7	23.3
Neither satisfied nor dissatisfied	4	13.3
Somewhat dissatisfied	5	16.7
Very dissatisfied	8	26.7
Don't know/No opinion	0	0.0

respondent answered question 30
respondent skipped question 0

Question 5. Briefly explain why you are dissatisfied with the efficiency of the PSTC in training you.	
Time was wasted waiting to participate in practical training/Not enough staff for practical training.	10
Need more time spent on practical/scenario training.	2
Long periods when cadets were not allowed to talk to one another.	2
Needed more feedback after scenarios. Needed to review testing for feedback after grades.	1
Staying at the academy was not beneficial.	1
Too many classes on mental health and dementia that lasted two days and the second day would reiterate the same points made on the first day. This happened often with other classes as well.	1

provided comment 12
did not provide comment 18

Question 6. Do you have any suggestions for improving the academy you attended?		
Answer Options	Count	Percent
Yes	23	76.7
No	7	23.3

respondent answered question **30**

respondent skipped question **0**

Question 6. Text Responses, Yes:	
Need more time spent on practical/scenario training.	8
Time was wasted waiting to participate in practical training/Not enough staff for practical training.	7
Treat cadets like adults.	4
Focus on the basics.	3
Allow review of test results.	2
Need more experienced instructors.	2
Testing occurs too frequently.	2
Offer incentives to gather more guest instructors. Train staff for more program type delivery through other instructors. Drop some of the outdated paramilitary environment to save time and logistics.	1
If possible, another week of the Corrections Academy would be beneficial for more advanced training.	1
I believe there needs to be a new way to take tests. I felt overwhelmed at times due to the amount of material thrown at us and how the tests were given.	1
Allow students to have open gym at night.	1
Recruits should not be forced to stay at the academy and should be able to go home. Separating recruits from their family and support systems is the worst thing that could be done. Also, recruits should be able to work out on their own, but have to complete fitness tests along the way.	1
More discipline, adding physical training routines.	1
More consistency between staff members in regards to how they want things done procedurally.	1
Better food.	1
CPR (Cardiopulmonary Resuscitation).	1
Train them to a standard on how to make a correct police report. Students should have a standard that they meet in police writing before going to their departments.	1

provided comment **22**
did not provide comment **8**

Question 7. Have you received any in-service training provided by the PSTC since July 1, 2016?

Answer Options	Count	Percent
Yes	10	33.3
No	20	66.7

respondent answered question 30

respondent skipped question 0

Question 8. How satisfied are you with the quality of the in-service training you received from PSTC?

Answer Options	Count	Percent
Very satisfied	5	45.5
Somewhat satisfied	3	27.3
Neither satisfied nor dissatisfied	2	18.2
Somewhat dissatisfied	1	9.1
Very dissatisfied	0	0.0
Don't know/No opinion	0	0.0

respondent answered question 11

respondent skipped question 19

Question 9. Briefly explain why you are dissatisfied with the in-service training you received.

During the academy you are treated like a child and they never treat you with any sort of respect. During in-service training there is a certain level of respect, but the instructors are still very condescending which does not promote a healthy learning environment.	1
--	---

provided comment 1

did not provide comment 29

Question 10. Do you have any suggestions for improving the in-service training provided by the PSTC?

Answer Options	Count	Percent
Yes	3	30.0
No	7	70.0

respondent answered question 10

respondent skipped question 20

Question 10. Text Responses, Yes:

Fund more through ticket penalty.	1
More hands on training rather than death by power point.	1
Again more patrol experienced instructors and less talking "at" those attending.	1

provided comment 3

did not provide comment 27

Question 11. Did you submit to a drug screening from a licensed physician prior to entry into the PSTC academy?

Answer Options	Count	Percent
Yes	22	73.3
No	1	3.3
Don't know/Don't remember	7	23.3

respondent answered question 30

respondent skipped question 0

Question 12. Did your agency perform a background investigation before you entered the PSTC academy?

Answer Options	Count	Percent
Yes	30	100.0
No	0	0.0

respondent answered question 30

respondent skipped question 0

Question 13. Do you have any suggestions for improving the background investigation process?

Answer Options	Count	Percent
Yes	4	13.3
No	26	86.7

respondent answered question 30

respondent skipped question 0

Question 13. Text Responses, Yes:

Allow agencies to share information on candidate's background.	1
Very in-depth/effective.	1
The polygraph was a bit much. I completely understand the need for it, but I feel like 4 hours was a bit much.	1
Speeding up the process and making it more transparent.	1

provided comment 4

did not provide comment 26

Question 14. Are you aware of any significant weaknesses in the certification process that would allow an unqualified officer to receive certification?

Answer Options	Count	Percent
Yes	7	23.3
No	20	66.7
Don't know	3	10.0

respondent answered question 30

respondent skipped question 0

Question 15. Briefly explain the weaknesses in the certification process you believe would result in an unqualified officer receiving certification.	
Some cadets had trouble on some tasks but eventually passed.	3
Training staff didn't seem to notice cadets with poor character.	2
When tested on the material provided from PSTC, you have to choose from a multiple answer key. A lot of law enforcement is not a black and white answer. They should encourage students to think rather than just study for the test.	1
They do not give us time to be confident and understand the material. The academy spoke of liability the entire time and though it is a good thing to be aware of, it is going to cause new officers hesitant. I feel the entire academy shows you a lot of material but doesn't teach you anything and relies on the FTO program to fill in the gaps.	1
A police department that does not properly screen its applicants.	1
To my knowledge individual hiring processes are not standardized in that background checks are not always required or completed every time depending on the agency, potentially leading to cadets attending the academy without having had a full background check.	1
Each officer should be tested by a senior grader on how to conduct a MV stop, DWI/DUI, Domestic, and Police Tactical side. After each event, a STANDARD police report should be done on a computer and not on a tablet. This would make every officer a more capable officer for their departments.	1
<i>provided comment</i>	7
<i>did not provide comment</i>	23

Question 16. Do you have any suggestions to improve the application process?		
Answer Options	Count	Percent
Yes	2	6.7
No	28	93.3
<i>respondent answered question</i>	30	
<i>respondent skipped question</i>	0	

Question 16. Text Responses, Yes:	
PT test should be done with counting. It should not be about seeing people fail and letting them know. Set them up for success and not failure. It's the basics of leadership.	1
More scenario based training. The biggest issue I noticed was the lack of officer presence that was never truly addressed. The PSTC staff spoke of how they break people down and then build them back up. They never build you back up and a lot of recruits lack confidence. From staying in touch with several of my class mates we were not surprised by the students who did not pass field training.	1
<i>provided comment</i>	2
<i>did not provide comment</i>	28

Question 17 Overall, was the PSTC effective at ensuring officers meet minimum standards required of law enforcement officers?		
Answer Options	Count	Percent
Yes	20	66.7
No	8	26.7
Don't know/No opinion	2	6.7
<i>respondent answered question</i>		30
<i>respondent skipped question</i>		0

Question 18. How satisfied are you with the PSTC's efforts to enforce professional standards to ensure the law enforcement profession is held to high ethical standards?		
Answer Options	Count	Percent
Very satisfied	10	33.3
Somewhat satisfied	9	30.0
Neither satisfied nor dissatisfied	5	16.7
Somewhat dissatisfied	3	10.0
Very dissatisfied	3	10.0
Don't know/No opinion	0	0.0
<i>respondent answered question</i>		30
<i>respondent skipped question</i>		0

Question 19. Briefly explain why you are dissatisfied with the PSTC's efforts to enforce professional standards.	
I feel the ethical standards are lower than years past.	1
From attending PSTC, I understand why people do not like police officers. The instructors were condescending and would take their frustrations on the recruits. We were able to tell when one of the instructors was having a bad day because we would be punished for it, even if it was unrelated to our actions. Also, the class should not be punished for one student's actions. If one student acts up, they should be punished rather than everyone.	1
Lack of discipline.	1
I felt the women in the Police Academy were treated differently than the males. If we both aren't held to the same standard, then the system falls apart.	1
The Chief's "black list" is a terrifying prospect that has few remedies. Instructors at the academy are known for asking students not to report injuries and shuffling issues between recruits and instructors under the rug. Aside from that, you don't hear about misconduct in NH often, so I would assume they do well.	1
The standards are too low. We are so focused on the tests and not failing the tests, that we are not given efficient and reliable tactics/experience. We should expect our officers to be properly trained and not only trained to "minimum" standards.	1
<i>provided comment</i> 6	
<i>did not provide comment</i> 24	

Question 20. Overall, do you have any suggestions on how PSTC operations could be improved?		
Answer Options	Count	Percent
Yes	10	33.3
No	20	66.7

respondent answered question **30**
respondent skipped question **0**

Question 20. Text Responses, Yes:	
More instructors for one on one teaching.	1
Please fund repairs to facility and keep staff well compensated. In all driving skills, I think a penalty assessment should be levied for striking a cone, repeating the segment should be only allowed to improve speed. Accurate driving is more important than speed. Presently striking a cone just meant 'go again'. On the job it could be property damage or cost a life.	1
Time management.	1
Being able to see what you got wrong on your quizzes so you can learn from your mistakes.	1
Training courses designed to simulate real-world scenarios.	1
Try to get new officers to teach classes or help out. Revise the training material.	1
Use time more efficiently in the last several weeks.	1
The morning should be based on working out and then jump right into training. Tests and book work should be in the afternoon and taught to the students in an interesting fashion. Still doesn't make sense that I have the PowerPoint, I can read and study it but yet still have to have someone come into the class to read it to me again. We should be going over the information but we spend too much time wasting time.	1

provided comment **8**
did not provide comment **22**

Question 21. Do you have anything else to add that will help us better understand the Police Standards and Training Council?		
Answer Options	Count	Percent
Yes	7	23.3
No	23	76.7

respondent answered question **30**
respondent skipped question **0**

Question 20. Text Responses, Yes:	
I have been through a Police Academy previously in a different state. They used the first two weeks to do the tear down of people's attitudes and make sure they know how to listen. After that they worked on confidence building and making sure that when you went out on the road you were ready and confident. This academy did the opposite. It	1

was test heavy on things that were not necessary. Sitting in a class room 90% of the time and fighting to stay awake through power point is not a great learning environment. People would just memorize answers for the test and then most of them would just memory dump that information because they were worried about the next test that could have them kicked out. I understand the need for classroom work and I agree with it, but, it is well over done in this academy. Also, the staff there needs to learn that this is not the military and treating people like children the entire time does not build confidence nor does it make anyone respect the leadership (this does not go for all staff there). In my training out of state, they brought in real world, everyday situations. You would learn how to interact as a human and not as a recruit. If you want to get people to come out of the academy and be leaders, you need to start with leadership and training, that was not done at the academy. When I left the academy to work in an extremely busy town with very little staffing where you deal with arrests and drugs daily, I found out I was not ready. I learned more in my FTO period than I did in the whole academy. Another issue is the full time overnight requirements. I understand that departments have to take the cost of someone traveling and that I get. Overnight should be an option and not a must. Again, this is not the military. I have been in the military and this was not needed. The good parts were that I did find some good leadership through the ranks. They showed that they don't need to show off or tear you down 24/7 to feel as if they have power. They were the ones who got the most respect from the recruits. The police academy here in NH had potential and has a decent base for the future. It needs a ton of work. It needs to reach out to other states and find out what is working for them (outside of NH). Also, I understand that people complain and say that there was not enough training on "blank" and then the State says that it needs to be added in to the academy which is why it gets longer and longer and there is so much classroom time. Stop. This is BASIC training. It needs to be up to the departments as well to make sure that they are hiring the correct candidate for the job. They take care of most rules and regulations at the town/city level that do not even need to be touched in the academy. Start putting police officers who have experience in there and telling these recruits how to do the job. I looked up to the people in my first academy and still remember them to this day and the wisdom they brought me. I look back at this academy and question who put it together.	
I had a scheduling issue, and I felt that the Council was unyielding in their requirements. I was a full time officer for 22 years, and felt that I could miss one day of training.	1
I was very satisfied with my overall training. No improvements needed.	1
The staff is fantastic. The curriculum was relevant and helpful as I brought it into actual practice on the job. There was a perfect balance of discipline/strictness/order and a comfortable atmosphere.	1

I felt there was a 'disconnect' between staff members of the academy and the members of the Council. I think leadership should prioritize the flow of information both from staff to policy makers and from policy makers to staff, so that it is consistent and autonomous to the students, both at the academy and for continuing education. I sensed there were a lot of good people trying to teach but not in step with each other as a team nor with the Director as the leader. I don't place blame on any one person or group, but I do believe the 'team' needs work to improve effectiveness first, efficiency second, and earn respect from all students third. Trying to impress students with 'war stories', paramilitary basic training techniques, and other outdated schooling tactics doesn't work today. Turning out consistent, intellectual, tactical skilled, and caring officers will greatly impact the industry in a positive direction. Bring 'Protect and Serve' back to the forefront. Everything there is done by the book, which is good. I understand that discipline needs to be used to help mold people that have not been in that environment. When you're in week 13 and you're getting punishment for talking or other small things. It gets to the point where you just tune people out. You get a pat on the back for doing something good, but dropped way down for something as talking in the hall at night. You give an inch but take a mile.	1
At times it felt as though the academy was more focused on "checking boxes" rather than preparing recruits for their careers. That is to say that there appeared to be such a major effort on meeting a large quantity of minimum qualifications that true preparation and training was, at times, lost in the mix. On another note, in almost every hands-on practical learning session recruits spend a vast amount of their time waiting around for their turn to participate. I recall a number of days at the academy where I spent a majority of my day simply flipping through flashcards waiting to use the virtual simulator, or to participate in a practical scenario, etc. While studying flashcards and notes is certainly important, I do not believe it is the most efficient use of a recruit's time while at the academy when it occurs in such large increments. It appeared to me that higher staffing levels would allow for more practical learning sessions to take place at once, which may help alleviate time spent waiting.	1

provided comment 7
did not provide comment 23

Question 22. If you would like to receive a link to our report when it becomes public, please provide the email address where you would like to receive the link. (We will not report or retain this email address after the report is made public.)

Answer Options	Count	Percent
No, Thank you.	9	30.0
Yes. (Please provide email address.)	21	70.0

respondent answered question **30**
respondent skipped question **0**

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**STATE OF NEW HAMPSHIRE
POLICE STANDARDS AND TRAINING COUNCIL**

APPENDIX E

STATUS OF PRIOR AUDIT FINDINGS

The following is the status of applicable observations found in our prior LBA Financial Audit Report dated December 2010, entitled *Police Standard And Training Council, Financial Audit Report For The Six Months Ended December 31, 2010*.

<u>No.</u>	<u>Title</u>	<u>Status</u>	
2.	Redundant And Ineffective Controls Should Be Eliminated	●	●
3.	Encumbrance Activity Should Be Regularly Monitored	●	●
4.	Inter-Governmental Revenue Transactions Should Be Used When Appropriate	●	○
5.	Familiarity And Compliance With State Manual Of Procedures Should Be Improved	●	●
6.	Unused Accounting Units Should Be Deactivated	●	●
8.	Compliance With Recycling Statute Should Be Improved	●	●

The following is the status of one applicable observations found to be only substantially resolved in 2010 which was originally reported in a prior LBA Financial Audit Report entitled *Police Standards And Training Council, Financial And Compliance Audit Report For The Nine Months Ended March 31, 2005*.

<u>No.</u>	<u>Title</u>	<u>Status</u>	
1.	Formal Risk Assessment Policies Should Be Established (See Current Observation No. 9)	●	○

A copy of the prior report can be accessed on-line at our website
<http://www.gencourt.state.nh.us/LBA/auditreports.aspx>

<u>Status Key</u>			<u>Count</u>
Resolved	●	●	5
Remediation In Process (Action beyond meeting and discussion)	●	○	2
Unresolved	○	○	0

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