



WASHINGTON STATE
CRIMINAL JUSTICE TRAINING COMMISSION
19010 1ST AVENUE SOUTH, BURIEN, WA 98148

COMMISSION MEETING

Wednesday, January 27, 2021
10 AM

COMMISSION MEMBERS PRESENT:

Jeff Myers (Chair), Chief, Hoquiam Police Department
Ken Hohenberg (Vice-Chair), Chief, Kennewick Police Department
Laura Wells, Citizen at Large West
Brian Burnett, Sheriff, Chelan County
Joshua Kelsey, Sergeant, Lynnwood Police Department
Robert Latter, Sergeant, Clark County
Dan Satterberg, Prosecuting Attorney, King County
De'Sean Quinn, Councilman, Tukwila
John Batiste, Chief, Washington State Patrol
Steve Sinclair, Secretary, Department of Corrections
Robert Snaza, Sheriff, Lewis County

WSCJTC STAFF PRESENT:

Sue Rahr, Executive Director
Marisa Peer, Executive Assistant
Monica Alexander, Deputy Director
Johnny Alexander, Commander, Basic Training Division
Jerrell Wills, Deputy Director
Tom Hill, Program Manager, FTO/PTO Reserve Program
Ethan Swenson, Administrative Assistant, Information Technology Unit

GUESTS PRESENT:

Tienney Milnor, Assistant Attorney General, WA State Attorney General
John Hillman, Assistant Attorney General, WA State Attorney General

OPENING

Jeff Myers, Commission Chair

Chair Myers called the meeting to order at 10:00 AM.

Marisa Peer conducted a roll call of the Commissioners. A quorum was present.

Chair Myers announced that this meeting was being hosted on Zoom instead of in-person.

Chair Myers also announced that there would be no public comment period in the meeting due to the technology restrictions and concerns.

Chair Myers addressed the involvement of the Commission regarding proposed legislative changes, encouraging Commissioners to reach out to their legislators to share specific concerns or issues being created by some of the proposed bills. **Chair Myers** informed the Commission

that Spokane County has filed a petition of review in Spokane County Superior Court regarding the Commission's unanimous denial of the proposed Spokane County academy model. **Chair Myers** reminded the Commission that **Director Rahr** has indicated her intention to retire on March 1, 2021 and that the Commission will begin the search for a new Executive Director. **Chair Myers** encouraged the Commission to consider as an agenda item ensuring all agencies continue a mandatory and documented FTO/PTO training program that will last 480 hours following BLEA training. **Chair Myers** shared with the Commission his belief that it would be good public policy to not allow cities, counties, or employing entities to enter into a separation agreement with an employee who leaves with certification revocation qualifying misconduct and enter an agreement with that employee to prevent the Commission from acting on certification revocation due to the separation agreement.

EXECUTIVE DIRECTOR'S REPORT

Sue Rahr, Executive Director

ATD

Director Rahr informed the Commission that Captain Bart Hayes from Tacoma Police Department will take over as the new Advanced Training Manager effective February 1, 2021.

COVID-19 Update

Director Rahr highlighted to the Commission that WSCJTC has been able to navigate challenges without having to fully shut down the academy but did bring to their attention that Spokane BLEA had a recruit with COVID-19 show up to class, infecting three others. **Director Rahr** also stated that WSCJTC has 340 rapid test kits on campus, in addition to establishing an agreement with the Seattle Fire Department to administer vaccines if they can be sourced. **Director Rahr** shared she is currently balancing the direction to give to employees with regards to vaccinations, as the process is straight forward with contracted employees, but this process is trickier with a full-time state employee.

Rodney Philbeck Update

Director Rahr informed the Commission that Rodney Philbeck's health is improving and has now moved to the western part of Washington for his continued rehabilitation and recovery.

Legislative Session

Director Rahr started with House Bill 1310, which reinforces I-940 training requirements, informing the Commission that a fiscal note was filed requesting funding for C2 mobile phone application, which has been in use in BLEA for several years. The intent is for it to be available for every officer in Washington State to receive training modules sent directly by WSCJTC. Senate Bill 5066 requires officers to intervene if witnessing misconduct and to further report the misconduct, with a corresponding fiscal note filed to fund the ABE program, including \$470,000 the first year and \$370,000 for each subsequent year.

Director Rahr shifted to House Bill 1267, which outlines how an independent investigative agency will operate attached to the Governor's Office, and how its impact on the Commission is focused on training, as WSCJTC is the entity responsible for supporting the training for investigators who handle these investigations. **Commissioner Satterberg** asked if there are any predictions on the expected workloads of the investigative groups, where their work cuts off, how many cases they will handle, and how many investigators they would want to hire.

Director Rahr answered by stating that coming up with answers to those questions is difficult based on the variables around each case seen throughout the state. **Director Rahr** further stated that the first year and a half of the bill is focused on the Director formulating a plan for how to implement this independent investigative agency. **Director Rahr** sees this as an opportunity to refine what was developed after I-940 once all agencies are on board to follow the established guidelines. **Chair Myers** pointed out that it is unclear if an independent investigative agency might render moot the need to have critical incident investigative teams or if collateral investigations would be needed. **Commissioner Quinn** asked if existing teams are aware and or taking advantage of the opportunity to track lessons learned. **Chair Myers** suggested facilitating a meeting with team leaders to encourage bringing everybody on board to allow for networking and sharing of information to occur. **Director Rahr** reminded the Commissioners that there is an obligation of the Commission to host a semi-annual forum for this purpose, with the next forum scheduled in June 2021, creating an opportunity for independent investigative teams' commanders and community members to discuss lessons learned. **Director Rahr** took the opportunity to inform the Commission of another bill which authorizes the State Auditor's Office at the conclusion of an independent investigation to engage with a consultant to review investigations to determine if the established LETCSA rules were followed. **Commissioner Burnett** commented that any regional team or agency always concludes an investigation with a major debrief and pointed out that existing independent investigative teams feel discouraged to have a bill attempt to undermine already established processes created in response to I-940 and LETCSA. **Commissioner Wells** asked if the purpose of the proposed bill to make the bill objective by not including law enforcement in the reviews. **Director Rahr** replied that House Bill 1267 is stakeholders coming to the table to negotiate the rule making process, then having a few cases around the state which did not follow the established rules, thus souring the relationship. **Commissioner Quinn** indicated that due to the nature of policing, there are limitations to what is discussed, and as a result, not enough of the public is aware of the work that has been done, nor the successes and breakthroughs. **Vice-Chair Hohenberg** stated policing continues to evolve, sometimes not fast enough, and at the end of the day, everybody wants to do the right thing, though sometimes good intentions can create bad laws which restrict options and can have the direct opposite impact of what the law is attempting to accomplish. **Commissioner Wells** shared a frustration that this bill seems to be missing the point by not holding investigations accountable, instead it will attempt to start the whole rule-making process over again. **Commissioner Snaza** mentioned that so many agencies throughout the state have worked hard to follow the established rules and guidelines, and that it is only a few agencies who are not, stating that it should be incumbent upon the Commission to call out those agencies who ruin all the hard work done by others. **Commissioner Snaza** further shared that if House Bill 1267 is passed, a divide will be created where cooperation may not exist between existing law enforcement officers and the newly created independent investigative team, suggesting instead that the rules established by LETCSA be allowed to take hold before rewriting the rules.

Director Rahr stated that for House Bill 1082 and Senate Bill 5051, each section will be highlighted with a focus on the impact on the Commission.

HB 1082 Section 1: Elected Sheriffs are included in the definition of law enforcement personnel. Definition of being convicted will include *please*. Definition of *disqualifying misconduct* has not been changed.

HB 1082 Section 2: Lays out the purpose of the Commission, increasing the emphasis on accountability. Law Enforcement stakeholders view the Commission as supporting them, but this change will now allow the Commission to hold stakeholders accountable.

HB 1082 Section 3: The composition of the Commission will change, creating new positions and eliminating others, with the intent to have a majority of civilian Commissioners versus law enforcement Commissioners.

HB 1082 Sections 4 & 5 have no significant impacts.

HB 1082 Section 6: Newly granted authority gives the Commission the ability to suspend certification and allows initiation of investigations of civilian complaints. The language in the statute says the Commission *may choose* to take a complaint and begin an investigation, which creates a fear that it creates an expectation of the public which the Commission might not be able to meet due to a lack of resources. The hope is to narrow the scope of circumstances for investigation. **Commissioner Wells** asked if there was an Ombudsman in the state that has criminal justice complaints in their portfolio. **AAG Hillman** stated that he is not aware of such a person. **Chair Myers** indicated that it would behoove the agency to have a person like that within the Commission, as opposed to being at the AG level. **Director Rahr** suggested that instead of fielding complaints of individual officers, WSCJTC should only be used after other options have been exhausted. **Chair Myers** indicated that if the language stays as it is, the Commission would need to review WACs and RCWs processes to enact, that through a WAC the Commission could clearly define the level of misconduct the Commission could investigate. **Director Rahr** pointed out that Page 5, Subitem 17 states *issue public recommendations to the governing body of the law enforcement agency regarding the agency's command decisions, inadequacy of policy and training, investigations, or disciplinary decisions*, she shared her belief this language is pretty all-encompassing and will be tricky to navigate. **Commissioner Quinn** mentioned that Section 6 ties into Section 3 with regards to the composition of the Commission, which could change the public perspective regarding the Commission's credibility.

HB 1082 Section 7: Page 6, Subitem 8 includes the vague and potentially exploitable language: *do any and all things necessary or convenient to engage it fully and adequately to perform its duties and to exercise the power granted to it.*

HB 1082 Section 8: Grants the Commission greater access to employment records and disciplinary records, which is important when dealing with uncooperative agencies, also granting the Commission the power to issue civil fines. This section also added language that allows for polygraph or other similar assessments.

HB 1082 Section 9: Gives the Commission powers to suspend, deny, or revoke certification; allows the Commission to suspend a certification or order remedial training; requires revocation for officers who witness excessive force and fail to intervene or fail to report; requires revocation for conviction of several crimes; allows for revocation of officers who use excessive force that causes injury and violates law or agency policy; allows revocation for a long list of discriminatory behaviors; allows revocation for civil rights violations, reckless behavior in a vehicle or with a firearm, or unbecoming behavior; and allows for the revocation for Reserve Officer certification, despite the fact Reserve Officers are not certified. **Commissioner Satterberg** asked where these complaints come from and how these cases are sent to the Commission. **Director Rahr** stated that agencies would be obligated to report. **Chair Myers** clarified that the Commission would have sole discretion whether to investigate complaints. **Director Rahr** further clarified that an except would be where the Commission is required to revoke certification. **Director**

Rahr added that a fiscal note was included as a part of this section which asked to finance an investigator supervisor, five investigators, a certification division manager, a legal advisor, two paralegals, two confidential secretaries, funding to pay an administrative law judge, and a contractor to build a database that is searchable by the public.

HB 1082 Section 10 has no significant impact.

HB 1082 Section 11: Shortens the timelines of the notice of separation, while also addressing the act of resignation in anticipation of termination. It also addresses the ability to have revocations done independent from agency investigations, while not having to wait for terminations to be complete.

HB 1082 Section 12: Individuals can file a complaint with the Commission, who has the sole discretion whether to investigate. It also includes language stating that the Commission shall initiate an investigation when an officer is subject to three excessive force complaints within a 5-year period.

HB 1082 Sections 13 – 17 have no significant impacts.

HB 1082 Section 18: Changes the composition of the revocation hearing panel to include an administrative law judge to oversee the hearing panels.

HB 1082 Section 19: Expands the time range to retaining records.

HB 1082 Section 20: Changes the composition of the revocation hearing panels and requires an annual summary of cases to be searchable in a public database. A fiscal note includes the need to hire a database developer to create this database.

HB 1082 Section 21: Includes some changes for public disclosure requirements for particular records.

HB 1082 Section 22: Commission must report annually to Governor and Legislature on progress to implement changes.

NEW BUSINESS

Executive Director Search

Chair Myers asked Commissioners how they would like to proceed and the timeframe for finding a new Executive Director. **Commissioner Wells** stated that it would help to answer that question if the Commission was aware of the current plan, or if there is an interim plan. **Chair Myers** asked the Commission to appoint an Acting or Interim Executive Director while the hiring process is underway, and asked **Director Rahr** if she had a recommendation. **Director Rahr** stated that the recruit of Monica Alexander as Advanced Training Division Manager and appointing her as Deputy Director was done in an effort to groom her as an eventual replacement for Executive Director. **Commissioner Quinn** appreciated the amount of time spent investing in and supporting Monica Alexander and wondered what kind of commitments **Director Rahr** has made about continuing that mentorship. **Director Rahr** stated that Monica Alexander's career with the Washington State Patrol has allowed her to retire with an excellent reputation, that she has been the go-to person when there have been struggles, and that she has the bravery and toughness to stand up for what is ethical and what is right in an effort to carry out the philosophy of the Commission. **Monica Alexander** shared that it has been an honor to serve under **Director Rahr**, who has promised to be available 24/7/365 for mentorship after retirement.

Commissioner Satterberg asked if Commission action was needed to be taken immediately to appoint an Acting Executive Director to take over responsibilities on March 1, 2021, further commenting that a subcommittee might be needed to create a job description with the knowledge that if the current legislative bills pass, this upcoming job changes and expands.

Commissioner Satterberg moved to approve Monica Alexander as Interim Executive Director. **Commissioner Quinn** seconded the motion. **The motion passed unanimously.**

Commissioner Quinn asked if there is an external communication plan regarding this appointment, as it is important to give **Director Rahr** the recognition she deserves before passing of the responsibility to the **Interim Director Alexander**. **Chair Myers** proposed a current job description be provided in advance of the March 10, 2021 Commission meeting, during which steps will be taken to modify or create a committee or adopt a process to review the job description. **Chair Myers** requests **Director Rahr** and incoming **Interim Director Alexander** to brush up the current position description. There were no objections to this proposition.

OLD BUSINESS

Reserve Program Workgroup Reset

Tom Hill, FTO, PTO, Reserves Academies Program Manager

Tom Hill read to the Commission the prepared document which included four WACs with some changes and a new WAC developed with former Commission John Turner to significantly increase the training of reserves after completing the Reserves Academy.

WAC 139-05-200 clarified language with the intent to make it easier to understand by removing the exception. No language was ever added back to directly address reserves. There is no WAC that addresses utilizing an academy, and in an effort to address this, WAC 139-05-810 was amended. This WAC was approved in the March 2019 Commission Meeting.

WAC 139-05-250 added *reserve academy*, stating that reserves must have some training with curriculum identified. This WAC was approved in the March 2019 Commission Meeting.

WAC 139-05-810 mandates that a reserve must attend an academy within six months of hire/appointment, however this WAC referred to WAC 139-05-800, which was not approved at the time and WAC -810 was not sought for approval.

WAC 139-05-825 mandates that a lateral reserve officer must complete the equivalency process within six months of hire/appointment, but as it referenced WAC 139-05-800, WAC -825 was not sought for approval.

WAC 139-05-800 develops a new tiered system, mandating reserves have a minimum number of Academy hours at 249.5 hours, which will increase to 257.5 after mandated CIT. Post Academy will include an additional 640 hour of training, which must be done under direct supervision of a certified peace officer. The first 150 hours must be with an FTO who completed the CJTC FTO/PTO Program. The remaining 490 should be completed with a general authority peace officer and does not have to be FTO/PTO.

Chair Myers asked about the post academy training hours and if it will be addressed in WAC 139-05-800. **Tom Hill** answered that post academy training hours is addressed in WAC 139-

05-825. **Commissioner Wells** asked if parking and crowd control is still a Tier 1 reserve officer. **Tom Hill** stated that the original tier system was removed due to the Commission wanting to focus instead on training officers who would be armed and conducting police business. **Commissioner Wells** asked if those individuals are still called reserves at that point. **Commissioner Burnett** added that Chelan County has a Reserve Program, though it is a dying program, which has different classes of reserve officers, where a Class A Reserves Officer with a certain amount of training hours can patrol, while the Class B Reserve Officer requires constant supervision. **Commissioner Wells** stated that since responsibilities are tied to a specific tier there should be an expectation for some level of training for those who represent their agencies in an official enforcement capacity, asking if there are any connections between number of hours trained and what those individuals are allowed to do as reserves. **Tom Hill** clarified that WAC 139-05-800 Section 1 defines reserve peace officer, based on an RCW, which may need referencing, while Section 2 defines a Level 1 reserve officer. **Commissioner Wells** asked if there exists a rule limiting number of hours where a reserve officer cannot work full time. **Chair Myers** answered that such a restriction might run afoul of DRS.

Commissioner Burnett pointed out that everybody who sees a uniformed officer in a car assumes they have the same level of training as every other uniformed officer, and that the Commission should protect those agencies from liability by further defining the WACs and Policies. **Commissioner Latter** shared the sentiment that this becomes a liability issue for agencies and full-time officers involved in use of force incidences with reserve officers. **Commissioner Latter** continued by saying that full-time officers require 658 hours of field training in a year after academy, while reserve officers require only 244 hours after their academy, which is a problem waiting to happen, going on to recommend that it should be a requirement from the Commission regarding the hours of training needing to be completed, as the more training required of any officer before committing law enforcement on their own is a benefit to the state and agencies. **Commissioner Latter** also asked if I-940 and LETCSA training will be including for reserve officers. **Tom Hill** answered that reserves were not included in the LETCSA WAC. **Chair Myers** suggested that the Commission could expand curriculum in the reserve academy beyond 257.5 hours.

Commissioner Wells mentioned wanting to ensure that the WACs are constructed in a way so that cities and counties are not able to claim the Commission knowingly allowed for underprepared uniformed officers to operate within the state of Washington. **Chair Myers** shared that it is hard to correlate how dangerous this situation is or could be due to a lot of agencies not maintaining reserve programs. **Commissioner Wells** pointed out that a lot of small agencies depend upon reserves on a full-time basis. **Chair Myers** suggested that if a reserve officer is full-time, they should go to the Basic Law Enforcement Academy instead. **Commissioner Latter** stated it is a permissible issue as the guild cannot put any pressure on agencies to change the policies regarding the number of training hours, that the Commission taking actions would force agencies to have people trained up to a level where these reserve officers are not a danger to themselves or others. **Chair Myers** indicated that the proposed FTO training is more than what some agencies require for certified peace officers. **Vice-Chair Hohenberg** declared that there is an issue with an officer only having 250 hours of training versus 720, that these suggested steps might not be large enough to reconcile this difference, further suggesting small agencies may need to contract with Sheriff's Offices as it is a matter of time until someone gets hurt due to a lack of training.

Chair Myers used Chair's Prerogative to reinstate the WAC review process on the agenda with first read for the March 10, 2021 Commission Meeting.

EXECUTIVE SESSION

At 12:27 PM, **Chair Myers** announced the Commission would be going into Executive Session to:

- (1) Evaluate the qualifications of an applicant for public performance and/or to review the performance of a public employee
- (2) Discuss with legal counsel representing the agency matters which are relating to the agency to discuss legal counsel representing the agency any potential litigation or litigation to which the agency is a member, could be impacted, or have financial consequence.

He advised, there are no members of the public present, and the public is excluded from the executive session in order to:

- (1) Discuss the performance of another employee confidentially so as not to disrupt the daily operations of the agency.
- (2) Discuss with legal counsel representing the agency matters which are relating to the agency to discuss legal counsel representing the agency any potential litigation or litigation to which the agency is a member, could be impacted, or have financial consequence.

He shared his expectation for Executive Session to last 15 minutes.

A separate Zoom call was attended by essential attendees. Executive Session began at 12:30 PM.

Chair Myers brought the meeting back on the record at 12:50 PM. He asked if anyone had anything further. Hearing none, he adjourned the meeting at 12:50 PM.

Next Meeting: March 10, 2021, 10 AM, WSCJTC

Written by:	 _____ Marisa Peer, Executive Assistant	 _____ Date
Reviewed by:	 _____ Susan L. Rahr, Executive Director	 _____ Date
Approved by:	 _____ Jeff Myers, Commission Chair	 _____ Date