



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

COMMISSION MEETING

Thursday, May 23, 2019
1 PM

COMMISSION MEMBERS PRESENT:

Jeff Myers (Chair), Chief, Hoquiam Police Department
Ken Hohenberg, Chief, Kennewick Police Department
Laura Wells, Citizen at Large
Brian Burnett, Sheriff, Chelan County (Telephonically)
Joshua Kelsey, Sergeant, Lynnwood Police Department
Robert Latter, Sergeant, Clark County
Dan Satterberg, Prosecuting Attorney, King County
De'Sean Quinn, Councilman, Tukwila
Penelope Sapp, Lieutenant, Kitsap County Jail
Steve Sinclair, Secretary, Department of Corrections
John Batiste, Chief, Washington State Patrol
Raymond Duda, SAC, FBI
Bob Ferguson, Attorney General, WA State Attorney General (Telephonically)

WSCJTC STAFF PRESENT:

Sue Rahr, Executive Director
Chris Fowler, Deputy Director
Marisa O'Neill, Executive Assistant
Jeff Wilcox, Manager, Information Technology Unit
Donna Rorvik, Manager, Quality & Standards Division
Stan Conrad, Manager, Advanced Training Division
Dan Christman, Program Manager, Advanced Training Division
Alex Buijs, Program Specialist, Advanced Training Division
Ethan Swenson, Administrative Assistance 3, Information Technology Unit

GUESTS PRESENT:

John Hillman, Assistant Attorney General, WA State Attorney General
Justin Kato, Assistant Attorney General, WA State Attorney General
Teresa Taylor, Executive Director, WACOPS
Tim Reynon, Puyallup Tribal Council
Gail Stone, LETCSA Contractor
Pauly Giuglianotti, Activist
Kim Mosolf, Attorney, Disability Rights Washington
Teri Rogers Kemp, Police Accountability Chair, Seattle/King County NAACP
Laree Shanda, Executive Director of NAMI Spokane
Leslie Cushman, Citizen sponsor of I-940
James Leighty, Citizen of Spokane

Carlos Bratcher, Information Officer, Black Law Enforcement Association of Washington
Bob Alexander, Retired, Black Law Enforcement Association of Washington
Maria Sigüenza, Executive Director, Commission on Hispanic Affairs
Davis Washines, General Council Chairman, Yakama Nation
Lynnette Buffington, Executive Director, WAFOP
Steve Strachan, Executive Director, WASPC
Monisha Harrell, Board Chair, Equal Rights Washington
Kurtis Robinson, President, NAACP Spokane AOWSAC
Liz Moore, Director, Peace and Justice Action League of Spokane
Toshiko Hasegawa, Executive Director, CAPAA
Nina Martinez, Chair, Latino Civic Alliance

OPENING

Jeff Myers, Commission Chair

Chair Myers called the meeting to order at 1:00 PM.

Marisa O'Neill conducted a roll call of the Commissioners. A quorum was present.

Chair Myers thanked everybody in attendance and gave appreciation to the city of Spokane for hosting this special Commission Meeting. **Chair Myers** announced that this meeting was livestreamed and video recorded with real-time transcription services also being provided.

Chair Myers announced that on February 4, 2019, Governor Jay Inslee signed the Law Enforcement Training and Community Safety Act as passed by the legislature, which required the Commission to set forth rule making for the different sections of the statute. Due to the process required for implementation of Washington State Administration Code (WAC), the particular proposed rule filed on May 15, 2019 has not passed the 20-day mandate since publication by the Code Reviser Office and as such only public testimony can occur during this meeting, as opposed to official public hearing on the WAC as proposed. The public hearing for this WAC will be held on the June 6, 2019 WSCJTC Commission Meeting.

EXECUTIVE DIRECTOR'S REPORT

Sue Rahr, Executive Director

Law Enforcement Training and Community Safety Act (LETCSA)

Director Rahr provided the Commission with a handout outlining the second draft of rules for Law Enforcement Training and Community Safety Act. Three statutes in Title 43 will be addressed: Violence De-Escalation Training, Mental Health Training, and Violence De-escalation Mental Health First Aid Training Requirements. These three statutes in Title 43 have been amended, with rules to be adopted by the Commission by June 6, 2019.

Director Rahr read through areas within the rules for LETCSA which presented opportunities to build greater consensus among the stakeholders named in the legislation. **Director Rahr** also indicated there are some errors in wording that had occurred between draft editions which can be corrected, as well as a removed section she would like to have restored.

NEW BUSINESS

WAC Rule Review – Introduction

Sue Rahr, Executive Director

Director Rahr, with input from community stakeholder groups, recommended item number four in 139.11.010 deletes the phrase "gain cooperation," which will make the wording in this section consistent with the language contained in 139.11.020.

Director Rahr identified seven different sections within 139.11.020 for review.

The first was to remove the word "threatening" from (1) (g) per a request from the community stakeholder groups. This will make the statement more consistent with statute related to CIT training.

Under section (1) (l) community stakeholder groups have requested to include the phrase, "the experience of Black Americans then and now," as well as, "often referred to as the prison industrial complex," and, "often referred to as the school to prison pipeline." **Director Rahr** commented that the first recommendation will not cause any issues with training, while she is uncomfortable with the language of the latter two suggestions, believing the phrases to be more rhetorical, while the existing language covers these topics adequately.

A request was received from WAFOP to substitute in the following language in (1) (l): "*Learning about the experience of Black Americans and the historical intersection of race and policing that; summarizes race and policing in the U.S. in historical context, including the ongoing influence of race relations, strategies to reconcile past injustice, and the importance of fair and impartial policing. This training should be supplemented by current data and research and discuss how policing practices can address historically unjust laws and policies through the identification/analyzation of policing practices.*" **Director Rahr** shares that while the inclusion of this language will not be a problem for developing the training, other community stakeholder groups expressed concerns about the language being unnecessary and inflammatory.

In section (1) (m), a request from community stakeholder groups was made to include the following language: "*with the goal of learning about respectful and effective approaches with communities of color, including, but not limited to, Black Americans, African Immigrants, Latinx, Native Americans, Asian Americans, Pacific Islanders, American Muslims, Sikhs, and Arabs.*" **Director Rahr** stated that the inclusion of this language can be managed in our curriculum development and is supported in the letter submitted by WAFOP.

A request was made from community stakeholder groups to restore the following language in (1) (s): "*Learning about the history of police interaction with Native American communities, including learning about tribal sovereignty, tribal culture and traditions, and how to meet with the new state law requirements of notification of tribal governments when a tribal person is killed or injured.*" **Director Rahr** echoed these sentiments and asked the Commission to restore this language as requested.

Community stakeholder groups also requested to include the following language in section (1) (t): "*First Aid training on the new state-wide policy, which is that 'all law enforcement personnel must provide or facilitate first aid such that it is rendered at the earliest safe opportunity to injured persons at the scene controlled by law enforcement.'*" **Director Rahr** admits that it was an editing mistake which omitted this language in the second draft and requests the Commission to restore this language as requested.

In section (1) (t) (ii), community stakeholder groups requested a change in language to the following: "*Understanding the solemn duty to preserve the life of the person with whom the officers come into direct contact.*" **Director Rahr** believes this language more specifically calls out the sanctity of the life of the persons who come in contact with law enforcement officers and

does not suggest a higher priority be given to one person over another. **Director Rahr** further states that this suggestion will not be a problem to incorporate in the training.

Within section 139.11.030, **Director Rahr** informed the Commission about the request from multiple law enforcement leadership groups about the need for a process to recognize and give credit for training related to this act that meets the standards that will be established in the final curriculum. It was reiterated that the existing waiver process provides a vehicle for agencies to make these requests.

Chair Myers asked for clarification regarding the statement within 139.11.030, "*This information must be available to the public.*" **Director Rahr** stated that once you get further into the rules that members of the public want to know when a waiver is granted for the purpose of transparency.

For section 139.11.050, community stakeholder groups requested changing the language to the following: (1) "*The Commission will consult with community members to seek input and assistance with the development and delivery of training and the recruitment of subject matter experts.*" (2) "*The Commission will meet four times a year with an advisory group that includes, but is not limited to, representatives of stakeholder groups identified in RCW 43.101.455 and family members of persons killed by police use of deadly force.*"

Director Rahr shared her knowledge that two Commissioners would address this a bit later with a proposal she believes will address this section.

Open Public Comment

Jeff Myers, Commission Chair

Chair Myers opened up the meeting for public input. Nineteen members of the public spoke to the Commission.

Teresa Taylor, Executive Director of Washington Council of Police and Sheriffs, said that WACOPS has been consistently engaged in the discussions about the use of force and training over many years, and that they are proud of their commitment and contribution and honored to build positive relationships with the active community groups through the development of LETCSA. Teresa informed the Commission that WACOPS has been the only law enforcement advocate to have taken the time and expended the resources to ensure members at every rule making meeting. Teresa appreciates the De-escalate Washington leadership team's willingness to name WACOPS in SHB 3003 and in House Bill 1064 as a statutory stakeholder. Teresa respects the endeavor undertaken by the Commission and looks forward to the continued participation in this process.

Kim Mosolf, Attorney with Disability Rights Washington, first thanked Director Rahr and her staff for all the work done over this process, and to the law enforcement partners in engaging with difficult discussions which have proved helpful for everyone involved. Kim expressed the happiness of DRW to see recognition on mental disabilities within the latest draft of rules. Kim reiterated the comments made by Director Rahr regarding the substitution away from the usage of the word "threatening" to "demonstrating unusual behavior." Kim informed the Commission that the use of the word threatening consistently garnered a strong response from DRW's constituents as it perpetuated a stereotype they did not want to see included in the rules. Kim asked the Commission to consider posting that change. Kim also informed the Commission that she is looking forward to hearing about any proposed ongoing community input moving forward.

Carlos Bratcher, former President at Black Law Enforcement Association of Washington, expressed happiness over the proposed rules, having been involved in this process since February 2016. Carlos highlighted the proposed language change in 139.11.020 (1) (t) as being particularly positive as it provides a humanizing image for law enforcement officers as it fosters trust and transparency within the community. Carlos also thanked the fellow community members for their ongoing support and work throughout this process.

Maria Sigüenza, Executive Director for the Washington State Commission on Hispanic Affairs, first thanked the Commission for their efforts in keeping safe the nearly 1 million Latinx and Hispanic people within the state of Washington. Maria recognized the hard work the Commission, CJTC leadership, and staff have undergone throughout this entire process, and to thank the Commission for addressing the impact of implicit and explicit bias. Maria offered two points of further consideration: in 131.11.020 (1) (m) to add specific communities in an effort to increase trust and visibility for these communities and police, and secondly, the new law specifically requires impacted communities be consulted during policy making on training and as such a request for an advisory group comprised of community members, families, and law enforcement be established.

Bob Alexander, Retired Member of Black Law Enforcement Association of Washington, requested of the Commission to include a person of color in a training position at the CJTC Basic Law Enforcement Academy.

Teri Rogers Kemp, Police Accountability Chair for the Seattle/King County NAACP, thanked CJTC and support staff for the hard work and diligence in working with the community stakeholders. The NAACP supports the May 9th letter sent from the entire community stakeholders asking for certain language to be included, specifically the language that discusses the historical intersection of race in policing, the experience of Black Americans then and now, recognizing and acknowledging the historical context of policing in reference to enslaved Africans and their descendants thereof. Teri also asked the Commission for an ongoing role for an advisory capacity for Black Americans and other displaced and marginalized communities.

Tim Reynon, Council Member of the Puyallup Tribal Council, represents his tribe and its 5,400 members, as well as advocating for the 29 tribes in Washington. Tim reminded the Commission that the Puyallup Tribe was directly impacted when one of his tribal members was shot and killed by police. Tim shared an appreciation for everybody involved in this process, from CJTC staff to fellow statutory stakeholders to law enforcement community members. Tim personally thanked Director Rahr for acknowledging the error found in 139.11.020 (1) (s) and its re-inclusion back into the rules. Tim asked the Commission to codify a need for continuing dialogue and an advisory board to be a part of this new rule.

Davis Washines, General Council Chairman and former Police Chief of the Yakama Nation, states that as a former member of WASPC, he understands and appreciates the work done by CJTC regarding the professional training for statewide officers. Davis further appreciated the acknowledgement of a Native American culture-based teaching component.

Pauly Giuglianotti, Activist, respectfully asked the Commission to listen to the will of voters and implement police reform. Pauly expressed concern that the proposed rules reject the needed reform. Speaking about the original proposed rules first aid in 139.11.020 (1) (t), Pauly requested the Commission change the language from "*facilitate first aid*" to "*render first aid*." Pauly informed the Commission that the word "*render*" appeared in both SHB 3003 and House Bill 1064 but has not been included in any proposed drafts. Pauly states that the original rules

violate the fundamental American value of checks and balances within law enforcement. Pauly condemned law enforcement officers who have publicly professed the wisdom of building bridges between community and police while simultaneously insulating the police system from any meaningful change.

Kurtis Robinson, President of NAACP Spokane and Criminal Justice Chair for NAACP AOWSAC, expressed gratitude for the work done by the Commission and its staff, and further thanks the Commission for addressing issues like emotional intelligence, self-awareness, cultural humility, recognizing mental or behavioral health, learning about indigenous populations, learning about the nature of crime and poverty, interactions with immigrants and refugees populations, and interacting with individuals who have experienced human trafficking, sexual assault and trauma, or domestic violence. Kurtis expressed the sentiment that this work is overdue and only just beginning. Kurtis reiterated that this processes must be the beginning, that continuing dialogue must occur and cannot be done alone. Kurtis points to language, such as "*consider*," being used in multiple instances with regards to community engagement, as well as informing community lead and driven boards to accomplish such ends of community engagement, compiled with the lack of specific targeted increase and refreshing areas of implicit and explicit bias. Kurtis indicated to the Commission that this points to a still-evident resistance to true in-depth change in some of these areas which impact the communities that law enforcement is supposed to serve. Kurtis reiterated that this affirms the reality that despite the great work already accomplished, this cannot be accomplished alone, that community engagement must continue.

Liz Moore, Director of Peace and Justice Action League of Spokane, thanked everybody involved for their time and efforts involved in LETCSA. Liz thanked the Commission for addressing the need for law enforcement to learn about the historical intersection of race and policing, about cultural humility, and the nature of poverty. Liz indicated that Peace and Justice Action League of Spokane endorses the May 9th letter the Commission received. Liz shared that her organization also supports the change in 139.11.020 (1) (g) which substitutes "*threatening*" to "*demonstrating unusual behavior*." Liz also strongly recommends changing the language regarding community support from "*considering consultation*" to "*requiring consultation*."

Toshiko Hasegawa, Executive Director of Commission of Asian Pacific American Affairs, thanked the Commission for taking on these complicated issues head on, but she informed the Commission that the work that has been completed to date is only the beginning. Toshiko impressed upon the Commission the importance of systematizing community involvement moving forward.

Leslie Cushman, citizen sponsor of I-940, thanked the Commission and staff for their hard work. For the advisory group, Leslie recommends that it is comprised of law enforcement, communities, and families personally affected by police violence. Leslie asked the Commission to consider accepting the May 9th changes to 139.11.020 (1) (l).

Lynnette Buffington, Executive Director of Washington State FOP, informed the Commission that WAFOP has been a consistent and active presence during the drafting of I-940 amendments, both in SHB 3003 and House Bill 1064. Lynnette believes that much of the WAC is reflective of collaborative conversation and consensus development but that much can still be improved upon to better serve its purpose of preparing officers for a policing career that will keep them and their communities in which they serve safe. Lynnette indicates that FOP submitted their revisions to the current draft and adds that she wants the Commission to

consider the culture of the training spaces and how the language in the WAC impacts the learning environment.

Nina Martinez, Chair of the Latino Civic Alliance, thanked the staff for all their efforts as a lot of collaborative work has been done to get to this stage. Nina wanted to focus on three things: it is important to recognize the diversity of the community by identifying communities by name; a formal advisory committee to be established which includes diverse communities, families impacted by police shootings, and law enforcement; the support of training on immigrants and refugees as well as human trafficking victims, domestic violence and abuse.

Steve Strachan, Executive Director for WASPC, impressed upon the Commission the importance of listening and understanding, not only understanding and acknowledging the issues and challenges for the community but it is also very important to understand the challenges and realities of law enforcement. Steven added that there is merit in ongoing community involvement.

Monisha Harrell, Board Chair for Equal Rights Washington, thanked CJTC staff for the work done over the past few months, the stakeholder collaborators for the input and sacrifice, and the Commissioners for all their volunteer time put in to this process. Monisha informed the Commission that words on paper mean nothing if the implementation falls short. Monisha stressed the importance of the inclusion of the LGTBQ community in the definition of diversity. Monisha impressed upon the Commission for the need of specificity, that ambiguity and uncertainty can be dangerous, to instead address what is known to be wanted and needed. Monisha ended her statement with a quote, "*Darkness cannot drive out darkness, only light can do that. Hate cannot drive out hate, only love can do that.*"

James Leighty, private citizen, asked a clarifying question of the Commission surrounding a private conversation between WACOPS and Director Rahr regarding changes to the draft, whether those change requests would be made public. James also addressed concerns regarding having enough money and hours for training, stating that one cannot put a price on a human life, so however many hours it takes, however much money it takes, that is what should be spent on training.

Laree Shanda, Executive Director of NAMI Spokane, thanked everybody for all the hard work on these increasingly complex issues. Laree agrees with the removal and replacement of the word "*threatened*" in section 139.11.020 (1) (g), as well as supporting a creation of an advisory group to meet on a regular and ongoing basis with the Commission. Laree says that working through the stigma of mental illness, issues of race and bias for communities of color is what is needed to step up and address moving forward.

Resolution Proposal

De'sean Quinn, Commissioner

Commissioner Quinn presented to the Commission a Commission Resolution regarding the creation of an ad hoc committee to work with the Commission to develop a structure and format for an annual summit of representatives of stakeholder groups identified in LETCSA with a purpose for the Commission to report on the progress of implementing LETCSA and to seek input and feedback. This Resolution Proposal is being co-sponsored by **Commissioner Hohenberg** and would be unique to LETCSA.

WAC Rule Review – Discussion

Commissioner Wells suggested for WAC 139.11.010 (4) to use FOP language as it is cleaner and more grammatically correct. **Commissioner Batiste** agreed.

Commissioner Kelsey, for 139.11.010 (2) suggested that instead of "*increase the distance*" to change the language to "*manage the distance*," as trainers articulate managing distance as there are times when increasing distance may not be prudent. **Director Rahr** advised that her trainers agree with this suggestion. **Chair Myers** and **Commissioner Wells** both felt that as an overarching rules for which the curriculum will be based upon, "*manage*" is a suitable word.

Commissioner Quinn supported the FOP suggested language change in 139.11.020 (1) (g) from "*threatening*" to "*demonstrating unusual behavior*." **Commissioner Sapp** and **Commissioner Batiste** both voiced their agreement. The Commission agreed upon this language change.

Commissioner Sinclair shared the concerns given by **Director Rahr** regarding the inclusion in 139.11.020 (1) (l) of the phrases "*prison industrial complex*" and "*school to prison pipeline*" as not an appropriate phrases to be codifying a part of the criminal justice system in a WAC. **Commissioner Satterberg** agrees with the strike of the parentheses as they limit the discussion of the roots of these social concepts. **Commissioner Kelsey** felt that the FOP version reads better, given the strike of the parentheses, to which **Commissioner Wells** agreed, and suggested further adding in inclusion of "*the institution of slavery through the Civil Rights Act of 1964*," as well as changing "*analyzation*" to "*analysis*." **Director Rahr** pointed out that throughout discussions the use of the word "*slavery*" has been a point of contention, to which **Commissioner Quinn** reminded the Commission that slavery happened and the Commission should not shy away from the term. **Chair Myers** echoed the sentiment and reminded the Commission that the Civil Rights Act of 1964 is very recent history and it would be remiss not to address it. **Commissioner Sapp** pointed out that the Commission should not be afraid to include uncomfortable language into WACs as it opens up dialogue. The Commission agreed to weave elements of both the written draft and FOP suggested adjustments into the next draft.

Commissioner Quinn, regarding 139.11.020 (1) (m), likes the proposed language and feels it is important to call out specific communities, and that while the WAC may not be able to name every community, it is hugely important as a start that can continue to be improved upon over time.

Chair Myers stated that the omission of 139.11.020 (1) (s) was an error and will be reinstated.

Commissioner Wells had a clarifying question regarding the language in section 193.11.020 (1) (t), and further asked why the WAC needs to include the word "*facilitate*". **Chair Myers** and **Director Rahr** reiterated that the "*facilitate*" references coordinating the procurement and ceding to a higher quality of care than the individual officer can provide. For the consistency of language, the Commission agreed to stay with the RCW language, but that when it comes time to establish curriculum that the Commission ensures clarity in the distinction between "*facilitate*," "*provide*," and "*render*."

Commissioner Satterberg noted a grammatical error in 139.11.020 (1) (t) (ii) which needs correction. This Commission agreed to clean this language up.

Commissioner Kelsey asked about the possibility regarding the phrase "Make parallel changes to the above revisions," in section 139.11.020 (2) to change the order to mirror 139.11.010 in case any changes are made in the future.

Commissioner Quinn pointed out that the Resolution Proposal addresses the changes made in 139.11.050, except maybe add that instead of an annual summit, perhaps it be changed to semiannually, perhaps with one meeting taking place on the East side of the state while the other takes place on the West side of the state. **Chair Myers** asked for clarification if it was the intention of the Resolution Proposal to have it replace 139.11.050, which would not be implemented in the WAC until a later date. The Resolution Proposal would buy the Commission more time to properly codify an advisory group which meets the needs of stakeholders and community members. **Commissioner Hohenberg** reiterated that the thought process behind the Resolution Proposal is to separate the advisory group from regular Commission business, which would make it unique to LETCSA, and that it shows an appreciation to the commitment to continue listening to the people and community members who have been involved in this process. **Director Rahr** recommended keeping the language open and inclusive rather than naming specific groups and communities, as these can be formalized down the road following further discussion. **Commissioner Sinclair** asked if it was possible to change the language in the WAC to clarify the number and location of summit occurrences, while still moving forward with the Resolution Proposal, which would allow the passage of the WAC without significant changes, but allowing the Resolution Proposal to fulfill its function as drafted.

Chair Myers directly asked **Commissioners Quinn and Hohenberg** if it was their intention for the Resolution Proposal to be administered in lieu of 139.11.050 and to strike 139.11.050 for the next draft presented, to which they both agreed and said that was the original intention of the Resolution Proposal. **Chair Myers** recommended leaving 139.11.050 as a placeholder with the intention to revise it in the future. **Commissioner Quinn** stated that he would not want the Resolution Proposal to replace 139.11.050 across the board and potentially miss important details, so he advised to use the best approach to capture the intent of the Resolution Proposal and 139.11.050 moving forward. **Commissioner Kelsey** recommended omitting all changes proposed by FOP and keeping the default language in WAC 139.11.050 as it allows the opportunity to affect changes to the WAC in the future. **Chair Myers** then followed up and recommended omitting the word "also consider" from 139.11.050 to strengthen the resolve that an advisory group will indeed be formed, to which **Commissioner Sapp** agreed. **Director Rahr** recommended drafting a blend of both for consideration on the June 6, 2019 meeting.

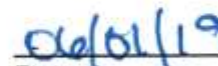
GOOD OF THE ORDER

The Chair asked for any new business, and hearing none, adjourned the meeting at 2:59 PM.

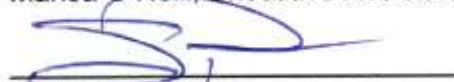
Next Meeting: June 6, 2019, 10 AM, WSCJTC

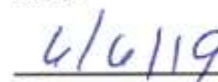
Written by:


Marisa O'Neill, Executive Assistant


Date

Reviewed by:


Susan L. Rahr, Executive Director


Date

Approved by:



Jeff Myers, Commission Chair

06/06/19
Date