

**NORTH CAROLINA CRIMINAL JUSTICE
EDUCATION AND TRAINING STANDARDS COMMISSION**

MINUTES

TELECONFERENCE CALL

DATE: May 15, 2020

TIME: 9.00 A.M.

LOCATION: N.C. Department of Justice/Training and Standards Division
1700 Tryon Park Drive
Raleigh, North Carolina

SUBMITTED BY: Steven G. Combs
Director

MEMBERS PRESENT

Chief Chris Blue
Captain Marianne Bond
Ms. Tasha Jones Butts
Sergeant Randy Byrd
Mr. Eddie Caldwell
Ms. Leslie Dismukes
Mr. Richard Epley
Mr. Lee Farnsworth
Ms. Stephanie Freeman
Ms. Jane Gilchrist
Mr. Andrew Gregson
Chief Robert Hassell
Chief Tim Hayworth
Mr. Andrew Hendry
Chief David Hess
Chief Brian James
Mr. Steve Johnson
Mayor Bobby Kilgore
Colonel Glenn McNeill
Ms. Tracy McPherson
Mr. Nathan Mizell
Sergeant David Rose
Director Bob Schurmeier
Mr. Michael Slagle
Ms. Angela Williams

MEMBERS ABSENT

Chief Cerelyn Davis
Mr. Brent Herron
Mr. Stan Hicks
Ms. Teresa Jardon
Chief Jeff McCracken
Chief Ron Parrish
Deputy Chief Stella Patterson

I. CALL TO ORDER

Commission Chairman Tim Hayworth called the meeting to order. Chairman Hayworth read the Ethics Responsibility into the minutes. He declared that a quorum was present and welcomed all visitors to the Commission meeting.

II. MINUTES OF FEBRUARY 21, 2020, MARCH 24, 2020 AND APRIL 17, 2020

Commission Chairman Hayworth entertained a motion to approve the minutes of the previous Commission meetings.

MOTION was made by Commissioner Bob Schurmeier that the Commission approve the minutes of February 21, 2020, March 24, 2020 and April 17, 2020. The MOTION was seconded by Commissioner Bobby Kilgore and carried unanimously.

III. STANDING COMMITTEE REPORTS

A. Executive Committee – Eddie Caldwell

Chairman Caldwell stated that the Executive Committee discussed the Commission dates for next year. The new dates for 2021 are February 17-19, 2021, May 12-14, 2021, August 11-13, 2021 and November 17-19, 2021. These meetings will be held at the Wake Technical Community College Public Safety Education Campus.

MOTION was made by Commissioner Caldwell on behalf of the Executive Committee to adopt the 2021 dates for the Commission meetings; seconded by Commissioner David Hess. The MOTION carried unanimously.

Chairman Caldwell asked Director Steven Combs to give an update on the Criminal Justice Standards Division. A copy of his written report is attached.

Chairman Caldwell asked Director Trevor Allen to give an update on the Justice Academy. A copy of his written report is attached.

B. Education & Training Committee – Chairperson Stephanie Freeman

Chairperson Freeman reported that on behalf of the Criminal Justice Standards Division, Deputy Director Michelle Schilling requested a rule change for clarifying attendance requirements for students in the BLET course. Deputy Director Schilling requested a rule change for 12 NCAC 09B .0404 – Trainee Attendance and 12 NCAC 09B .0405 – Completion of Basic Law Enforcement Training Course. After discussion, the proposal was tabled until the August meeting.

Chairperson Freeman reported that the Committee approved the minutes of February 20, 2020.

Deputy Director Schilling recommended accreditation for Central Carolina Community College – Instructor Training and Cleveland Community College - SMI. She reported that Forsyth County Sheriff's Office was not seeking reaccreditation for Instructor Training. The Committee approved the request.

Commissioner Steve Johnson presented a proposal for rule revisions for the General Instructor and Specialized Instructor Training Courses, specifically to reflect the correct number of hours and clarify specific course requirements. Commissioner Johnson discussed the intent of the rule revisions developed by the North Carolina Justice Academy regarding Course Management Guides for the Specialized Instructor Training Courses. Commissioner Johnson requested approval to proceed with legal review and bring to the Committee in August. The affected rules are 12 NCAC 09B .0209 – Criminal Justice Instructor Training; 12 NCAC 09B .0226 – Specialized Firearms Instructor Training; 12 NCAC 09B .0227 – Specialized Driver Instructor Training; 12 NCAC 09B .0232 – Specialized Subject Control Arrest Techniques Instructor Training; 12 NCAC 09B .0233 – Specialized Physical Fitness Instructor Training; 12 NCAC 09B .0417 – Specialized Explosives and Hazardous Materials Instructor Training and 12 NCAC 09B .0202 – General Instructor Training. Chairperson Freeman also noted that the rules for 09G would be considered. The Committee approved the request.

Chairperson Freeman reported that Director Combs presented a request that he received from Police Chief David Donaldson, University of North Carolina at Wilmington, in reference to Mandatory In-Service Training (MIST). The request was the possibility that Chiefs and Agency Heads be given credit towards the "Chiefs Choice" portion of MIST for "executive training" that they would attend/complete within the calendar year. He explained that only the "Chiefs Choice" would be considered as part of the request and not the topics that are mandated each year. The Committee requested that Director Combs discuss with the Executive Director of the North Carolina Association of Chiefs of Police to obtain additional information and bring back to the August meeting.

Chairperson Freeman reported that on behalf of the Instructor Training Advisory Group, Jessica Bullock, North Carolina Justice Academy, recommended major revisions and/or additions to the Instructor Training curriculum. The recommended revisions are Law Enforcement Instructor Liabilities and Legal Responsibilities - updating the objectives that were already present to match the content in the lesson plan. Modifying that the lesson plan can be taught in the classroom or on-line. The addition of three new handouts: A Condensed Outline of Copyright and Fair Use for Educators and Librarians; Probationary, General and Specialized Instruction Certifications; Quick Reference Guide and North Carolina Department of Justice Attorney General's Office Law Enforcement Training and Standards Section. Practical Exercises to include scenario-based training on the following subjects: Copyright and Fair Use, Negligence, Deliberate Indifference and Student 8-Minute Introductions and Video Critique. Giving the School Director the option to break the class into two or three groups depending on the size of the class or keeping the students as one group to complete their presentations. Changing the ratio from 1:6 to 1:18 since class time allows, and it would not be burdensome to the students or the instructor. Giving students the option to receive a copy of their videotaped presentations to allow them to view it later. Updating the way that feedback is given to allow the other students to provide feedback to the student rather just receiving feedback from the instructor. Revising the evaluation form for this block. Active Learning: Demonstration and Practical Exercises: updating and adding objectives; revising the practical to be approximately 15 minutes per student. Adding and/or updating the following handouts: Practical Exercise Instructors Template; How to Build Your Paper Airplane; 15-Minute Evaluation Form; adding a demonstration created by the Smithsonian Institute to show the proper way to conduct a demonstration. Audio-Visual Aids: Adding an objective and supporting materials. Removing outdated handouts, adding an icebreaker exercise to show students the proper way to create and conduct an exercise with time added in for instructor direction and feedback. Adding a flip chart practical exercise that can be done as a group exercise or as an individual practice – instructor choice. Adding videos to describe new programs that are available to assist with student engagement. Updating the electronic presentation exercise and moving it to the end of the block so that it coincides with the objective that it portrays. Curriculum Evaluations: adding a voluntary curriculum evaluation. This voluntary curriculum evaluation will be distributed by providing school directors with the link <https://www.surveymonkey.com/r/IT-ProgramEvaluation> and be provided to their students. The purpose of the curriculum evaluation would be to ensure that the curriculum meets the needs of the students. The Committee approved the recommendation.

Chairperson Freeman reported that Jarrett McGowan with the North Carolina Department of Justice requested approval of the revised Eyewitness Identification Reform Act pamphlet and curriculum for the Academy. Both documents were updated to reflect the latest changes to the Act and approved by the Committee.

Chairperson Freeman reported that on behalf of the North Carolina Department of Public Safety – Office of Staff Development and Training (OSDT), Felicia Banks requested approval to extend Pilot Authority granted in February 2019: 12 NCAC 09B .0235 – Juvenile Court Counselors and Chief Court Counselors, Basic Training Curriculum; and 12 NCAC 09B .0236 – Juvenile Justice Officers Basic Training Curriculum. She noted that Juvenile Justice is in the process of refining curriculum changes necessitated due to the implementation of Raise the Age, which took effect in 2019. Curriculum modifications are anticipated in response to the COVID-19 pandemic and 12 NCAC 09G. 0415 – Corrections Specialized Instructor Training Curriculum – Firearms Training curriculum. She noted that OSDT was in the process of incorporating curriculum changes into the practicum and they would need additional time to test these

changes due to closures arising out of the COVID-19 pandemic. The Committee approved the request for extension of Pilot Authority through March 1, 2021.

Chairperson Freeman reported that on behalf of the BLET Advisory Group, Jennifer Fisher, North Carolina Justice Academy, briefed the Committee on minor revisions to the BLET curriculum as approved by the BLET Advisory Group: Arrest, Search and Seizure/Constitutional Law – Minor content revisions were made throughout the lesson plan to content relating to juvenile rights, interviewing a defendant outside of custody, and the information Reform Act. Additionally, the Rothgery case was removed from the handouts. Elements of Criminal Law – A minor content revision was made in the lesson plan regarding first-degree murder. Law Enforcement Communication and Information Systems – A minor content revision was made to the lesson plan to include information on the Law Enforcement Exchange database. Subject Control Arrest Techniques – A minor content revision was made in the lesson plan adding a statement about the use of lethal force during a disarming attempt of an officer. This statement is consistent with the statement being added in the Firearms block of instruction. Firearms – A minor content revision was made in the lesson plan adding a statement about the use of lethal force during a disarming attempt of an officer. This statement is consistent with the statement being added in the Subject Control Arrest Techniques block of instruction. Alcohol Beverage Control (ABC) Laws and Procedures – Minor content revisions were made to the lesson plan updating the mission of the North Carolina Alcohol Law Enforcement and the statutory definition of “premise”. Motor Vehicle Laws – A minor content revision was made to the lesson plan regarding railroad crossings. Controlled Substance – A minor content revision was made to the instructor notes section of the lesson plan allowing instructors to use simulated controlled substances. However, genuine controlled substances are highly recommended to use when feasible. Crowd Management – Minor content revisions were made throughout the lesson plan. Sheriffs’ Responsibilities – Minor content revisions were made throughout the lesson plan.

Chairperson Freeman reported that on behalf of the North Carolina Justice Academy, Alex Gazaway briefed the Committee on the status of the ongoing BLET Revision Project pursuant to the Job Task Analysis.

Deputy Director Schilling informed the Committee that staff would not be approving any pre-delivery requests for Commission mandated training for Blue Ridge Community College until all concerns are addressed.

Lastly, Chairperson Freeman reported that Deputy Director Schilling noted that due to accreditation concerns with Stanly Community College, staff would not be approving any pre-delivery requests.

C. Planning & Standards Committee – Chairperson Leslie Dismukes

Chairperson Dismukes reported that the Committee approved the minutes of February 20, 2020.

Chairperson Dismukes reported that the Committee conducted a rulemaking hearing on two sets of rules. The first set were emergency rules that had been previously approved by the full Commission to address SMI recertification during the COVID-19 emergency, which now needs to be formally codified in the Administrative Code. She explained that the Committee conducted a rulemaking hearing on the following rules: Emergency Rules – All three emergency rules were recommended for the same reason. Director Combs currently has the authority to grant a one-time extension of recertification for good cause for probationary and specialized instructors. The Commission felt that the same should apply in the SMI context and therefore approved these emergency rules: Rule 12 NCAC 09B .0310 – Terms and Conditions – (SMI Instructors) – The Committee voted to recommend adoption of the proposed changes to the rule as set out in the packet. New Subsection (c) allows the Director to grant an extension of time for SMI Instructors to attend an SMI Instructor Re-Certification Course on a one-time basis and for good cause. This would not extend certification; rather it allows a grace period to obtain recertification without having to start the process over.

MOTION was made by Commissioner Dismukes that the Commission adopt the changes to 12 NCAC 09B .0310; seconded by Commissioner Brian James. The MOTION carried unanimously.

Chairperson Dismukes reported that the Committee voted to recommend adoption of rule 12 NCAC 09B .0409 – Satisfaction of Training – (SMI Operators) – New subsection (a)(5) allows the Director to grant an extension of time for SMI Operators to complete their supervised field practice on a one-time basis and for good cause. As with the above rule, this is not an extension of certification.

Chairperson Dismukes reported that the Committee voted to recommend adoption of rule 12 NCAC 09C .0308 – Speed Measurement Instrument (SMI) Operators Certification Program – Language was added to subsection (d) that allows the Director to grant an extension of time for SMI Operators to attend a recertification course on a one-time basis and for good cause. The current rule requires that SMI Operators attend a recertification course before their certification has expired. This is not an extension of certification.

Next, Chairperson Dismukes reported that the Committee voted to recommend adoption to rule 12 NCAC 09A .0205 – Period of Suspension: Revocation: or Denial proposed changes to the rule as set out in the packet. New subsection (b)(9) adds the ability to grant lesser sanction for conviction or commission of offenses specified in 09B .0111(1)(d) – four or more crimes or unlawful acts which are Class A misdemeanors.

Chairperson Dismukes reported that the Committee did not conduct rulemaking to 12 NCAC 09B .0101 – Minimum Standards for Criminal Justice Officers rule. The addition of subsection (9) to the rule deals with procedure for reporting credibility issues to the Standards Division. As this is a topic that is likely to generate a significant amount of discussion, the Committee felt that it would be better to conduct the rulemaking hearing at the August Commission meeting when we can hopefully meet in person. The Committee tabled the rulemaking hearing for this rule.

Chairperson Dismukes reported that the Committee recommended adoption of 12 NCAC 09B .0202 – Responsibilities of the School Director proposed changes to this rule. Subsection (b)(7) was changed from 15 days to 30 days for pre-delivery BLET submissions to the Commission. This change is consistent with other predelivery deadlines in the code for instructor training and SMI. Subsection (c)(1) was changed from forty hours per week to 78 total hours, which is consistent with the total number of hours of instruction in the current curriculum.

Chairperson Dismukes reported that the Committee considered 12 NCAC 09B .0203 – Admission of Trainees to streamline the process of providing record checks in advance of BLET in order to improve efficiency and cost for applicants and schools. The statute was reorganized to make it more understandable and less redundant. Subsection (h) was revised to describe the types of record checks that are acceptable and what documents must be provided: (h)(1) – Criminal Record Conviction History for BLET Enrollment from a department head; (h)(2) certified criminal record check for state and local records; (h)(3) for trainees who have only ever lived in North Carolina, a “Right to Review” conducted by the SBI; (h)(4) for trainees who have lived outside North Carolina while an adult, a “Right to Review” conducted by a Federal Agency; (h)(5) trainees who have served in the military must provide one of the four types of record checks above in addition to a DD-214 showing “Character of Service” and “Narrative Reason for Separation”; (h)(6) trainees who are naturalized citizens do not need to provide record checks from locations outside the United States before they are naturalized; (h)(7) trainees who have resided outside the United States, other than those in sections (5) and (6), who cannot obtain a criminal record check from locations outside the U.S. must provide certain documentation to the Standards Division for consideration on a case-by-case basis. All record checks provided pursuant to subsection (h) must include certified court documentation for any criminal conviction or court-martial. Subsection (i) sets forth the requirements and parameters for those documents provided pursuant to subsection (h). New subsections (l) and (m) were requested by School Directors in order to ensure that BLET trainees will be able to legally drive and carry a firearm during the BLET process. The Committee voted to recommend adoption of the proposed changes: Paragraph (h)(6): “a” was changed to “A” and Paragraph (h)(7): “a” was changed to “A”. Also, one additional change to subsection to (l); to add the

wording: or (2) a signed and dated written statement from the individual certifying that no such active Orders exist related to the individual.

Chairperson Dismukes reported that the Committee recommended adoption of 12 NCAC 09B .0303 – Terms and Conditions of General Instructor Certification proposed changes to the rule. The changes are intended to correct the URL access to forms and to allow probationary General Instructors to earn their certification without having to wait a full year. Trends have shown that probationary instructors are able to obtain the necessary evaluated instruction hours well short of a year and this change would allow them to obtain their full instructor certification upon completion of those hours.

Chairperson Dismukes reported that the Committee approved rule 12 NCAC 09E .0104 – Instructors: Annual In-Service Training so that instructors can complete mandated in-service training in November and December in order to be ready to teach starting in January of the calendar year for those topics. The Committee made additional clarifying changes and the rule reads: Instructors who no more than 60 days prior to the upcoming calendar year, complete mandated in-service topics in their entirety pursuant to 12 NCAC 09E .0105 as presented by the North Carolina Justice Academy as part of the Instructor Training Update program shall have satisfied the requirements of rule 12 NCAC 09E .0105 for the upcoming calendar year.

Chairperson Dismukes reported that the Committee voted to recommend adoption of 12 NCAC 09E .0105 – Minimum Training Specifications: Annual In-Service Training proposed changes. These provisions change every year pursuant to the recommendations of the Joint In-Service Training Committee. The Commission is seeking legislation to give the authority to publish the in-service topics without amending the Administrative Code, because we do not know when or if that will pass and so must amend this provision for the 2021 in-service training.

Next, Chairperson Dismukes reported that the Committee voted to recommend adoption of 12 NCAC 09G .0309 – Terms and Conditions of General Instructor Certification proposed changes. This is the sister rule for Corrections 09B .0303, which was approved for criminal justice officers. The changes are the same with revising the URL for forms and allowing Instructors to come off probationary status sooner than a year if they complete the necessary requirements.

Chairperson Dismukes reported that the Committee considered changes to 12 NCAC 09H .0102 – Minimum Training Specifications for procedures for Retired Law Enforcement Officers to carry concealed weapons. The statute sets out the requirements much more clearly: (a) – four hours of firearms training and qualification; (b) qualify with each handgun in accordance with the published guidelines; (c) qualification includes both day and night course with each handgun and day/night combat course with one handgun; (d) required instruction on self-defense, use of force by private citizens, detention of persons by private citizens, and assistance to law enforcement by private citizens; (e) review of firearms safety and marksmanship; (f) qualification requirements consistent with current requirements for law enforcement officers; (g) period of certification and renewal; (h) requirement to qualify each certification period with each handgun. The Committee recommended adoption with some minor revisions to paragraph (b): “to” was changed to “with” and paragraph (d): “officers” was changed to “officer”. Chairperson Dismukes explained in subsection (f) there needed to be some clarification by saying the three attempts did not have to be in a single day for failure. She stated that subsection (f) would read: “The qualifications requirement shall be achieved at least once in a single day and no more than three attempts per day for each course of fire and for each weapon for which qualification is required. Officers not qualifying in a single day for each course of fire shall be deemed as a failure and a Retired Qualified Law Enforcement Officer shall not be allowed to carry that weapon until such time as the qualification requirement has been met.”

MOTION was made by Commissioner Dismukes to adopt the changes to the following rules as set out in packet and the recommended changes as read: 12 NCAC 09B .0409 – Satisfaction of Training – (SMI Operators); 12 NCAC 09C .0308 – Speed Measurement Instrument (SMI) Operators Certification Program; 12 NCAC 09A .0205 – Period of Suspension: Revocation: or Denial – to grant lesser sanction for conviction or commission of offenses (four or more crimes

or unlawful acts); 12 NCAC 09B .0202 – Responsibilities of the School Director; 12 NCAC 09B .0203 – Admission of Trainees; 12 NCAC 09B .0303 – Terms and Conditions of General Instructor Certification; 12 NCAC 09E .0104 – Instructors: Annual In-Service Training; 12 NCAC 09G .0309 – Terms and Conditions of General Instructor Certification; and 12 NCAC 09H .0102 – Minimum Training Specifications for procedures for retired law enforcement officers to carry concealed weapons with minor changes: paragraph (b): “to” was changed to “with” and paragraph (d): “officers” was changed to “officer.” Paragraph (f) delete the wording “in a single” and adding, “until such time as the qualification requirement has been met”; seconded by Commissioner Johnson. The MOTION carried unanimously.

D. Probable Cause Committee – Vice-Chairman Mike Slagle

Vice-Chairman Slagle reported that on behalf of the Probable Cause Committee, the Committee did not meet on Wednesday, May 13, 2020 or on Thursday, May 14, 2020. Vice-Chairman Slagle reported that due to the COVID-19, there was discussion of multiple ways to have a meeting. He reported to comply with the Governor’s order, to protect everyone, we postponed the meetings. The meetings have been rescheduled for July 8 and July 9 at Wake Technical Community College. He noted that social distancing would be put into place.

E. CJ Fellows Program Committee – Chairman Nathan Mizell

Chairman Mizell reported that the Committee approved the minutes of February 20, 2020.

Chairman Mizell reported that Ms. Erica Reid, with the Criminal Justice Standards Division updated the Committee on the status of current Fellows.

Chairman Mizell reported that the Criminal Justice Fellows form needed some revisions in which the waiver needed clarification language and proper direction to the applicant.

Chairman Mizell reported that the amended Action Request Form (FP-3) was approved.

Lastly, Chairman Mizell reported that the Committee received five Fellowship applications and after review of each applicant, they were approved contingent to funding.

IV. OTHER BUSINESS

None

V. OLD BUSINESS

Ms. Brenda Rivera reported the Pending Administrative cases for the coming months.

VI. DATE OF NEXT MEETING

Commission Chairman Hayworth advised that the next Commission meeting is scheduled for August 12 – 14, 2020 at the Wake Technical Community College, Public Safety Education Campus in Raleigh, NC.

VII. MOTION TO ADJOURN

MOTION was made by Commissioner David Rose that the Commission adjourn; seconded by Commissioner Kilgore. The MOTION carried unanimously.