

Rochester Police Commission
Rochester, NH 03867

Derek J. Peters, Commissioner
David R. Stevens, Commissioner
Lisa M. Stanley, Commissioner

MINUTES OF THE POLICE COMMISSION MEETING

The Rochester Police Commission held their regular monthly meeting on Wednesday, November 4, 2020 at 7:00 P.M in City Hall, Council Chambers. Participants in this meeting: Comm. Peters, Comm. Stevens, Comm. Stanley, Chief Toussaint, Dep. Chief Boudreau, Capt. Pinkham, Chaplain Cilley and Secretary Warburton.

The meeting called to order at 7:00 P.M.

A. Pledge. All participated in the pledge.

B. Prayer. Chaplain Cilley delivered the opening prayer.

C. Roll Call. The clerk called the roll marking Commissioner's Peters, Stevens and Stanley present.

D. Preamble. Chairman Peters read the City's Preamble for accessing this meeting into the record.

City of Rochester, NH
Preamble

Good Evening, as Chairperson of the Police Commission, I'm declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this emergency.

a.) **Public Input**: Due to the ongoing situation with COVID-19, the City of Rochester will be taking extra steps to allow for public input, while still ensuring participant safety and social distancing. In lieu of attending the meeting, those wishing to share comments, when permitted, with the Police Commission are encouraged to do so by the following methods:

- **Mail**: Becky Warburton/Public Input, 23 Wakefield Street, Rochester, NH 03867 (*must be received at least three full days prior to the anticipated meeting date*)
- **email** becky.warburton@rochesternh.net (*must be received no later than 4:00 pm of meeting date*)
- **Voicemail** 603-330-7131 (*must be received no later than 12:00 pm on said meeting date in order to be transcribed*)

Please include with your correspondence the intended meeting date for which you are submitting. *All correspondence will be included with the corresponding meeting packet (Addendum).*

In addition to the above listed public access information, the Police Commission will be allowing the public to enter Council Chambers and speak in person during the Public Input portion of this meeting.

In an effort to adhere to CDC guidelines: enter only at the front Wakefield Street entrance and exit on the side closest to the police department and adhere to 6-foot social distancing while inside. Hand sanitizer and facemasks will be available at the Wakefield Street entrance. Participants will be admitted into Council Chambers one at a time to speak, and will exit directly thereafter. Please note; the seating in Council Chambers will not be available for the public during meetings.

At this time, I also welcome members of the public accessing this meeting by phone. The public can call-in to the below number using the conference code. This meeting will be set to allow the public to “listen-in” only, and there will be no public comment taken via conference line during the meeting.

Phone number: 857-444-0744 Conference code: 843095

2. PUBLIC COMMENT:

No public comment.

3. ACCEPTANCE OF MINUTES:

A. October 7, 2020 regular meeting.

Comm. Stevens MOVED to accept the minutes of the October 7, 2020 meeting as presented. Comm. Stanley SECONDED the motion. The motion to accept the minutes PASSED unanimously.

4. OLD AND UNFINISHED BUSINESS:

A. K9 Program. Chief Toussaint stated this topic came up at our last meeting and he wanted to follow up with some of the numbers we do have regarding the current program, frequency of use and the cost of the program.

Chief Toussaint said we don’t have a great handle on noting if a track was successful or unsuccessful. Moving forward we will do a better job. However the area is gray on what is successful. If we apprehend a fugitive, that is successful. If we find a lost person, that is successful. If we are doing a track and the dog picks up a scent and can take us to an area where it appears the person got into a car, although there is no apprehension; that is still a successful track. If the dog finds a piece of evidence on a track, that is successful. It is hard to quantify successful versus not successful all the time.

Officer MacKenzie prepares a year-end report annually. These are the numbers for the past three years of when the dogs were used:

	# CALLS	TRACKS	DRUGS	IN ROCH
2017	48	30	18	26
2018	56	32	24	27
2019	58	41	17	

What we are planning to do moving forward as Keith is getting ready for career retirement and we are thinking of transitioning to another handler. We have one whom has been selected. He went with Keith to training in Virginia, running Keith's dog, to get a feel for it. He is excited and more knowledgeable about the program.

Chief Toussaint said as far as cost, if we select a bloodhound, Keith said he could find a donated dog. We do have line items that are dedicated to the care and maintenance of the dog.

Dep. Chief Boudreau said we budgeted \$140.00 for certifications, and \$1,500.00 for medical expenses. We have not spent any money to date this fiscal year on medical. We did spend \$606.18 last year and we spent \$754.13 the year prior. Since the inception of the program, Blue Seal had donated the food for the dogs. When they stopped carrying the brand of food that Keith switched to Keith donated the food to the program.

Chief Toussaint said so there is not a huge expense. It is a worthwhile program, particularly the tracking aspect. The selected officer, if going with a bloodhound, which we are strongly leaning towards, we will obtain the dog and work in transitioning training with this dog with Keith and not needing an additional cruiser, and then hand the program over to the new officer.

Comm. Stevens asked can a Bloodhound do drugs also, or is that two separate things.

Chief Toussaint said that is separate and over the years we have lost court battles as tools have been taken away from law enforcement in NH. The drug dog is used less and is less useful. We used to be able to run a dog around a car if we suspected drugs, but it has changed so much on what we can and cannot do on a traffic stop. We cannot extend the stop beyond the original reason for the stop. So on a plate light out, you cannot ask the age old questions of where are you coming from and where are you headed? It has to be about the observed violation. So the drug dog is less and less useful to us at this point.

Comm. Stevens said so the plan is to move forward with just one dog?

Chief Toussaint said yes. He believes that Phlirt (our drug dog) is nearing the end of her useful life as a working dog. We just wouldn't replace her.

Comm. Stanley asked if Keith would then adopt the dog.

It is believed that he would.

Chief Toussaint further said that we don't have good records for when Keith has responded to calls out of town, nor when we have called other agencies with dogs into the City. The bottom line is that Keith has a lot of irons in the fire in his personal life. He's not as available as he once was. When he first started as K9, he was there every time we called, so we got a little spoiled. It is unrealistic that any employee will be available day or night.

Comm. Stanley asked then is the K9 on a regular shift or just on call.

Chief Toussaint replied that we have done both. He is on the clock for seven hours, and one hour is dedicated to the care of the dog. He had a set schedule that was an addition to the shift. He didn't get deep into any investigation. He has transitioned where he is now part of the shift and is expected to handle calls. When he is needed for K9 the dog is used.

B. Governor's Commission on Law Enforcement and Accountability. Comm. Peters asked if the command staff had reviewed the Governor's Commission report.

Chief Toussaint said we have. Additionally PSTC just put out some guidelines from the US Department of Justice for certification of agencies. They call it certification from an outside agency. In NH that agency is PSTC. This is a requirements from the Department of Justice for these things to be implemented if you want federal funding such as COPS grants. One of the specific things is to ban chokeholds. This document is approximately 7 pages of suggestions for use of force policies and what is needed in there.

Chief Toussaint said I've gone through our policies, I haven't compared specifically all of the policies, but I can tell you we cover the vast majority of these in our policies. We don't say specifically no chokeholds. We don't specifically have something that there is a duty to intervene which is required in this. But these are easy fixes. The plan is we are going to get together and tweak our policies and make sure all of our use of force policies are compliant with DOJ standards. Then there is a process to get certified through Police Standards and Training which involves sending them a copy of our updated policies and sending a letter certifying that we are in compliance. So our policies will be tweaked just a little bit, they are not major overhauls. The vast majority of the items on the DOJ list such as warning shots, firing from a moving vehicle, there is tons of stuff in there that we have addressed for as long as I have been employed in Rochester.

Comm. Stevens said if we are not in compliance then we cannot get federal funding?

Chief Toussaint said correct. If we are not on the list from PSTC as a compliant Department, then we will not be approved for federal funding. We will be updating the policies and bringing them back to you next month.

5. NEW BUSINESS

A. Policy Standard 26.1.1.2 Uniform Appearance. Dep. Chief Boudreau said during our weekly staff meeting we talked about having a transition period instead of a specific date for changing over from summer to winter and winter to summer uniforms due to differences in temperatures from days, evening, and midnights. Our policy lists a specific date of when we

change from short sleeves to long sleeves and vice versa. We would like to tweak the policy for two to four weeks, weather dependent, to account for temperature differences. Where day shift may want short sleeves the evening shifts may want the long sleeves. Last year, it snowed the first day of short sleeves.

Comm. Peters said his take on this is this contractual?

Dep. Chief Boudreau said it's in the policy.

Comm. Peters said the policy can be tweaked. Personally that should be up to the Chief to decide. It doesn't need to come before me.

Comm. Stevens said he was in favor of a rewrite to allow the flexibility using common sense and discretion. We still have a standard uniform they are expected to maintain.

Chief Toussaint said what you are suggesting I'm in favor for, because it's easier for us. However it is in policy. And if I'm just waiving policies left and right, the policies don't mean as much.

Comm. Peters said you can adjust the policy and bring it back to us next month, but temporarily make the change based on weather fluctuations.

Chief Toussaint confirmed the Commission was authorizing a temporary waiver of policy for this time period, followed by the policy change moving forward.

B. Monthly Reports

1. Operations: Capt. Pinkham stated all ward meetings are on hold during the pandemic. The investigations bureau had 40 cases sent up from patrol or that were Detective generated. The total open cases is 59. Many of these are major cases that require a lot of resources. There were 21 cases presented to the Grand Jury, all with true bills. There is one background investigation completed and another under way.

Lt. Bossi attended the most recent Rental Property Owner's Association. They are planning to use Zoom as a method of meeting for the foreseeable future. The next meeting is November 5. Anyone who would like more information about the RPOA can contact Lt. Bossi.

K-9: This month the Rochester K-9 Unit responded to 3 calls for service. All were for tracks in Rochester. There were no subjects located. However there were a couple of strong scent tracks. We also used a dog from an outside agency this period.

COMPSTAT: Traffic stops decreased a bit this period which we attribute to the large number of high priority calls that were being investigated. We have implemented extra patrols at certain areas in addition to normal proactive patrols.

Property crimes had an uptick in burglaries and thefts from motor vehicles this period, however, year to date those numbers are down.

We did have some drug related arrests, which were found during searches incident to other arrests. The past few months the POP unit has had some patrols and activities that were successful in addressing drug issues and different searches. We have had a lot of success with this unit.

Comm. Peters inquired if the Strafford County still had a drug task force.

Capt. Pinkham replied that they do have a couple of deputy's doing similar work in a limited capacity. They are available and have joined us on a couple of operations and we have done the same. It's scaled down from what it used to be.

Chief Toussaint said if we have a situation or investigation where we need additional manpower or assistance, then we can contact them and team up with them. They are not doing independent investigations in Rochester. They are more of an ancillary role to assist us.

Comm. Stanley asked is that due to funding or due to the pandemic?

Chief Toussaint said that a lot of Departments pulled personnel because they couldn't replace guys on the team. We had one full time and another working part time but essentially full time with them. When we got so low-staffed I told them I can't dedicate someone to that. There were other departments in similar situations. I think the participation from other departments in the county kind of dropped off. It kind of fizzled a little bit.

Comm. Peters said so we kind of have our own "team." We communicate with them if they need assistance or we do it's a mutual aid thing.

Chief Toussaint said we have the POP unit. And I tell them all the time, this isn't a drug unit. That is part of your role, but it's not your full role. If they did have a situation where drugs were consistently being sold out of a residence or one of the long term residence hotel/motel places in town and we needed a bit more manpower, we could definitely call them and tap into those resources.

Capt. Pinkham in the comp stat report we did have the robbery spree which we mentioned affected some of the proactive work.

Comm. Stanley asked about the comp stat report. The proactive hours by shift. I recognize we had that one day where the calls were coming fast and furious. But the four year comparison shows a slow trend line down and I'm curious do expect that we will see that level out, or rise with the POP unit?

Chief Toussaint said not just with the POP unit.

Comm. Stanley said they are dedicated to proactive policing.

Chief Toussaint said they absolutely are. There is an expectation that all patrol officers in the City will dedicate time to proactive work. Whether that is traffic stops, which, "I am a big traffic stop believer." Just being out there with the blue lights shining people see the police out

there a lot. We get a lot of information from traffic stops. We make a lot of arrests from traffic stops. We got up to a point where we were making anywhere from 900-1200 stops per month. And then the staffing fell out. We've slowly picked up, but I still have four openings. I have one guy who is long-term light duty, I have another about to be deployed for the military. So we are not full staff but we are striving towards redeveloping a culture of proactive policing. When you see the decline, we were at a really high point. And it slowly started to decline. The short answer is yes we are striving for this.

This is an emphasis every month in the comp stat meetings. It's an I understand busy and the serious calls lately that take up a lot of man hours for detectives and patrol when you are talking about things like robberies or fatal accidents. They take a lot of time. All of our calls generate reports. So when they are available they are making self-initiated contacts which is what we are looking for which drives those numbers the right way.

Comm. Stanley said, speaking of traffic stops, she was contacted by a constituent regarding traffic stops at night. She said this is the second time she's heard this particular concern, and in fact it was a concern for her about 4 years ago. The lights that shine into the side mirror are extremely bright, which seems like it's intentional. You are literally blinded. It's nerve-wracking. She said I understand there is a certain amount of putting that person off-guard and keeping the officer safe. But once the officer recognizes and understands the person whom is stopped, is there a way to tone that down.

Dep. Chief Boudreau asked are you speaking to the white lights or the blue lights.

Comm. Stanley said for her it was the white lights.

Chief Toussaint said it is done for that very reason, the take down lights on the top and the spot light on the side mirror.

Comm. Stanley said once the officer approaches and has the license and registration and it's a 50-year old citizen, can they tone it down?

Capt. Pinkham said this is officer discretion and officer safety. I would not be comfortable telling an officer to turn it off. It is a tool to keep the officer safe. It is a tactical advantage to have. I don't know if that is something we want to start practicing.

Comm. Stanley said not to turn it off, but is it adjustable?

Dep. Chief Boudreau said the white lights are not adjustable. His initial inquiry of blue or white lights is because the newer cars being built will have smart controls built into the blue light bars with different flashing patterns. Once a car is put in park and has no motion those lights will slow in speed and intensity so they are not as overpowering to the motoring public. However the spotlight and take down lights don't have that ability.

Comm. Stanley said she understands that. However, once the officer has assessed the situation and realizes it may be a grandmother with grandkids just coming from McDonalds. Do

we not recommend discretion? We are trying to get to a place here and around the country where the police and community cooperate with each other. We are not trying to intimidate our citizens. We want to have a cordial relationship with our communities. Just putting it out there.

Capt. Pinkham said it is food for thought. I don't think it has anything to do with our relationship and how we treat people. It's a tactical thing. If I approach that traffic stop and I am very respectful and very polite and they get issued a warning, that has nothing to do with my demeanor or my personality, how I have the lights. And hopefully my character on that stop will be a reflection of that and not where the lights are positioned.

Comm. Stanley said based on her personal experience, and based on a call she just took, your perception is different than that of the person in the vehicle.

Capt. Pinkham said he would agree that we all have different perceptions

Drug Take Back Day was held last weekend. Our numbers are down from prior years. We collected 188 pounds, which is still a good number.

COMMUNITY ENGAGEMENT OFFICER/PROBLEM ORIENTED POLICING

UNIT: The POP and CEO are busy and spending many hours in various locations in the city, stopping by the homeless camps and providing resource information. We are trying to get a pinpoint on the location and mapping locations finding who has been staying at the different camps.

Off. Danie was away at training for most of this month and the POP unit filled in those duties when possible.

We have been doing different operations with the POP unit. We are trying to do that monthly. Our POP unit is young and trying to gain experience with other units, passing on their contacts and knowledge. It is getting better every time we work with them.

Comm. Stevens asked if we know how many homeless camps we have right now, the size of them; small or large.

Capt. Pinkham said it depends. We have been trying to track and map them as best we can. There are a number of them popping up in different locations every day. I couldn't give you an accurate number. The sizes vary from single occupants to many occupants, and they are all over the City.

Chief Toussaint said we spend a huge amount of time chasing homeless camps. These are not the massive sites you might see in the big cities. One or two tents. We get a complaint that someone set up a tent on a property we head out there and trespass them. If it is a sophisticated set up, we usually give them 24 hours to move. They move to another property and we get another complaint. We do this constantly. If you read the log there are transient and homeless comes up all the time. There is no mechanism to do anything except move them along. We make contact with them and tell them they have to go.

Comm. Peters asked if the Tri-City area still looking for a viable option for these people.

Comm. Stanley said that Dover came up with something.

Comm. Peters added he knew they were looking in Rochester but that had fallen through.

Comm. Stevens thought the Robbins building was going to be used again.

Chief Toussaint said that Dover is using space where McIntosh College used to be.

Comm. Stanley said and there are still the funds for a more permanent situation. But even at that, you can't force them to go.

Capt. Pinkham said that he has worked some of these operations with the POP unit and personally spoken to some who are homeless who report they are fine where they are and have flat out said they are not going to use the services, but thank us for the information.

COMMUNICATIONS: The news coming from the center is that our senior dispatcher is going to be retiring. We are actively posting for that position.

The center staff is doing more work on the fire side regarding how they handle calls, terminology over the radio and how they tone calls. They have been updating the records and paging system. There is a lot of good proactive modern things happening. They are trying to see if they can emulate and transition any of that over to the police side.

Comm. Peters commented "he is an excellent dispatcher. I worked with him over the years. He will be missed."

PROSECUTION. We have no update on juvenile or adult prosecution.

SCHOOL RESOURCE OFFICERS. Now that the schools are remote we will be adjusting the positions. We are still developing how we will provide the resources needed from us. Officer Porfido will transition to patrol as the elementary schools will be operating in limited capacity. The issues such as traffic patterns and parking issues will not be relevant.

The Explorer Post has been on hold for a while. Officer Danie, Officer Jackson and Officer Porfido are working to start expanding and improving that program to get more commitment from candidates. We would like to use them for events in the City at functions, sand different events so they are working on that. There will be some changes once we are able to get that program up and running again. Which is a good thing.

HOUSING. Officer Mundy is transitioning well into the role. He has been doing random checks and going to different events. He has adjusted his hours a couple of time to work evening shift.

Comm. Stanley asked I know that he has been assisted by Sgt. Babine, but is he doing this by himself.

Capt. Pinkham said, yes, for the most part it is just him.

2. Administrative. Dep. Chief Boudreau advised that we have received the vast majority of the external vest carriers. There were two fittings so we are waiting for about 18 more to be delivered. Feedback from the officers so far has been great. We are looking at different options for shirts under them. The current shirts have pockets and buttons that are not accessible any more. We would like to find a wicking material, like the under armor. They will still have patches on the sleeves and collars for collar brass. We are waiting for some models that we can wear test and evaluate.

The front line cruisers are slated to be built next week and should be here at the dealership by early December. From there they will be painted and scheduled for the radio vendor.

Comm. Stevens said, so, on the road by January.

Dep. Chief Boudreau said yes. There is a lot of coordination that goes with that. We are trading two cars in so we have to get the gear removed from them. I've asked to get on the build schedule in early January. Departments that order a mass amount of them can overwhelm the vendor.

Comm. Stanley wondered if they are having supply chain issues. So many are, especially electronic vendors.

Dep. Chief Boudreau stated he was not aware of any issues. We've ordered the gear, radios in car cameras.

Comm. Peters said so we basically have all the equipment we need ready to go.

Dep. Chief Boudreau said that two of the cars are change outs, a 2016 and a 2017, with older model cages. We will transfer and use what gear we can. The third car is a brand new car.

Comm. Peters said the gear is ordered though.

Dep. Chief Boudreau said that it is. The vendor buys in bulk and will have some stuff in stock.

Dep. Chief Boudreau said one of the projects we were working on in FY20 that was delayed due to COVID was the renovation/revamp of the Detective bureau. The work stations have been order, the flooring ordered and the purchase order for the electric work is in place. The work stations are set to be in place on December 10-11. We will have to displace the bureau staff for about a week while new paint and flooring is installed. This is long over-due and we are excited to get it done.

The radio project is still moving forward.

Purchases over \$5,000 in September: We paid for the three front line cruisers, and for the extended warranty for the in-car cameras.

The mobile dispatch center has been ordered. We do not have a time frame of the build.

We will be starting to build our FY21 budget in December. We don't have the parameters from the city yet.

TRAINING: Officer Rummo has completed week 9 of the academy and is doing a great job. We met with him yesterday and he is adjusting to the new format of not living at the academy and traveling back and forth. It is creating an interesting dynamic for all of them.

In the month of November we will be completing our annual use of force training. We are also working on hosting a couple of courses here, which will garner us some free seats. We want to host a Taser instructor recertification course and we are also looking at an additional class on de-escalation. This is an instructor level course so we would gain instructors from it. This is in the developmental stages.

HIRING: We had one conditional offer signed and the background packet has been assigned to ISB.

D. OTHER.

Comm. Stanley wished to give a big shout out to the election workers for the amazing job they did yesterday. From moderators, to voters, the City Clerk and her staff. Comm. Stevens concurred saying he's not sure people realize the amount of work that goes into an election. Hours and hours of work, so, our hat is off to them.

6. CORRESPONDENCE:

The following correspondence was received this period: Off. Brinkman and Sgt. Miehle are thanked for their professionalism and empathy in delivering a death notification to a family. Sgt. Miehle is thanked for addressing a traffic concern during a recent paving project on Columbus Avenue. Off. Johnson is recognized for her outstanding compassion and commitment while building a relationship with a citizen experiencing difficult circumstances.

Comm. Stevens said he wanted to mention the shift run by Sgt. Benjamin where the calls were back to back. It was impressive how he handled the officers, used his resources, calling for additional help. That is leadership. He did an outstanding job that night, as did all the people who helped on those calls.

Chief Toussaint said there is a written recommendation pending for all of them. Supervisors are constantly juggling, reallocating and triaging.

7. INFORMATION: None

8. NON-PUBLIC SESSION: (Pursuant to: RSA 91-A:3)

Commissioner Stanley MOVED to enter a nonpublic session at 8:00 P.M. pursuant to RSA 91-A:3, paragraph II, section A (personnel) and section E (legal.) Comm. Stevens SECONDED the motion. The motion PASSED by roll call vote 3 - 0 with Comm. Peters, Comm. Stevens and Comm. Stanley voting in the affirmative.

The non-public session closed at 8:30 P.M. on a MOTION by Comm. Stevens, SECOND by Comm. Stanley. The motion PASSED by roll call vote 3 - 0 with Comm. Peters, Comm. Stevens and Comm. Stanley voting in the affirmative.

Comm. Stevens MOVED to seal the minutes indefinitely. SECOND by Comm. Stanley. The motion PASSED by roll call vote 3 - 0 with Comm. Peters, Comm. Stevens and Comm. Stanley voting in the affirmative.

9. MISCELLANEOUS:

Comm. Stevens MOVED to accept the evaluations as presented for Officer Knox and Officer Colson, and to award a merit track advancement to Officer Hattie Johnson to Patrol Merit Track 3. Comm. Stanley SECONDED the motion. The motion PASSED unanimously.

10. ADJOURNMENT:

Comm. Stevens MOVED to adjourn. SECOND by Comm. Stanley 8:30 P.M.

Respectfully Submitted

Rebecca J. Warburton
Secretary

APPROVED BY COMMISSION: 12/02/2020