

Schoharie County Law Enforcement Review Committee (LERC)

January 19, 2021

Attendees: please see attached roster

Meeting called to order at 3:02 pm.

Chairman Federice – We have 2 people on the conference line. We need to start winding down our discussions so we can begin to prepare our recommendations. One of the topics we needed to talk more about was the Body Cam Policy.

Ms. Paden – We reviewed your newer Body Cam policy and compared it to your older one and we feel the newer one is weak. Rather than leave it up to each law enforcement individual to determine when or when not to turn the camera on, we would like to see it more straight forward. The “shall” makes it mandatory, where “should” gives the option.

Sgt. Reinhart provided examples of why “should” fits best rather than “shall”.

Ms. Paden – Last summer the NYS Police enacted a new body camera policy (attached email). It states that the NYS Police “shall” wear cameras and record. Why would the Sheriff’s Department be different?

Sgt. Reinhart – Because of staffing numbers, rural coverage area, equipment malfunctions.

DA Mallory – “Should” provides leeway but I can guarantee you that our officers capture everything that I need. I think we can agree to disagree.

Chairman Federice – How about the taser policy?

Sgt. Reinhart – We are not prepared for that topic tonight. We can cover that next week though.

Ms. Paden – We reviewed your draft Bias-Based Policing Policy. We think it’s good, but we feel there should be a way to evaluate. Refer to the “Police Statistics and Transparency Act - requires courts to compile and publish racial and other demographic data of all low-level offenses, including misdemeanors and violations. The data collected must be made available online and updated monthly. The new law also requires police departments to report any arrest-related death to the Department of Criminal Justice Services and to submit annual reports on arrest-related deaths to the Governor and the Legislature.”

Sgt. Reinhart – This was discussed at last week’s meeting. We understand that collecting and evaluating information is the only way to ensure that our policing is fair and objective. Our problem is that we don’t collect that information, nor do we have time to or is it appropriate to do so. All of this information is collected by the courts. I believe the best way would be to obtain the necessary information from the courts.

Ms. Graulich – Yes. We decided that I would reach out to the Magistrates Association and ask to be invited to their monthly meeting so we can discuss this.

Ms. Hults – There is a need for transparency. We would like there to be access to results of complaints, access to body camera coverage and access to this information in a timely manner.

Sgt. Reinhart – This is already being done, by NYS Law. This is addressed with legislation. We cannot include all legislation in each policy. As we know legislation changes often, therefore our policies would have to change each time legislation changed. That would be very tedious and time consuming.

Pastor Ray – I think what they are saying is that if there is access to information, we just want the public to know about it and know how to access information.

DA Mallory – This is called FOIL – Freedom of Information Law. This is a NYS Law and it is being followed and has been for many years. We already follow the law and it is very time consuming. FOIL requests have strict guidelines and time frames that are followed.

Sheriff Stevens – What we have seen on the news nationally is not happening here. This is a transparent community. That is how we build trust.

Ms. Hults – We just want that fairness and transparency not to change.

Sheriff Stevens – I agree with you and I can assure you that during my administration here it will not change.

Chairman Federice – Your list has the desire to establish a county-wide police review committee.

Ms. Hults – We don't want to lose momentum on this topic.

Chairman Federice – Why county-wide?

Ms. Hults – Because of size, availability, similar policies.

Chairman Federice – I see you also have De-escalation training listed.

Ms. Hults – Yes. Is this something that is provided?

Sheriff Stevens – Yes. De-escalation is part of the training in the academy that every officer receives. Any training that is offered throughout the year we take advantage of.

Ms. Paden – We aren't necessarily looking for change. More looking for continued education.

Sheriff Stevens – De-escalation is preservation. The ability to communicate is the best tool to have.

Ms. Hults – We are a rural community. There should be no exception for racism or bias. I still see confederate flags flying which is an example that we still have bias. We just hope for awareness.

Chairman Federice – I see your point. But it's hard when no law is being broken.

We will meet next Tuesday here at 3:00 pm.

Meeting adjourned at 4:15 pm.

Law/Radio/Law Review Meeting January 19, 2021 (Board Chambers)

| | <u>NAME</u> | <u>PHONE NUMBER</u> | <u>AGENCY/DEPT/VISITOR</u> |
|----|-------------------------------|---------------------|----------------------------|
| 1 | Bill Federice | 607-353-2110 | Chairman of the Board |
| 2 | C.J. Smith | 518-295-8300 | BOS |
| 3 | Carl Walthers | | SchoPeg |
| 4 | Debbie Paden | virtual | Rural Awakenings |
| 5 | Duane Tilipaugh, Undersheriff | 518-295-2230 | Sheriff's Dept. |
| 6 | Pastor Ray Richards | 518-234-2120 | Committee member |
| 7 | Pat Hults | | Rural Awakenings |
| 8 | Peter Harrison | virtual | Rural Awakenings |
| 9 | Scott Haverly/Jordan | 518-295-8465 | I.T. Director |
| 10 | Sgt. Zach Reinhart | | |
| 11 | Sheriff Ron Stevens | 518-295-2207 | Sheriff's Dept. |
| 12 | Steve Weinhofer | BOS | BOS |
| 13 | Susan Mallory | 518-295-2272 | DA |
| 14 | Suzanne Graulich | 518-295-8740 | LDI |
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Bill Federice <federicebill@gmail.com>

Subjects not yet discussed by County

Pat Hults <hultsp@outlook.com>

Tue, Jan 19, 2021 at 10:18 AM

To: Bill Federice <federicebill@gmail.com>

Cc: Theresa Heary <theresa.heary@gmail.com>, Paden/Meadows <windmill@midtel.net>, Peter Harrison <kingdomnoyze@verizon.net>, Reggie Harris <regerino42@gmail.com>, Wendy Cook <wcook001@luthersem.edu>, Alyson Montione <montionea@gmail.com>, "shelaria@gmail.com" <shelaria@gmail.com>

Below are the subjects Rural Awakening feels have either not been addressed yet, or warrant further discussion. How do we find out the call-in number for today's meeting? Thank you. -Pat

Patricia Hults

We reviewed our initial recommendations and these are the issues that we believe still need discussion:

- The need for transparency and accountability;
- Access to information about complaints;
- Access to body cam videos;
- Access to information about disciplinary actions;
- Establishment of County-wide police review committee to include village and county members, with specific charge of ongoing review of policy, among other duties; and
- De-escalation training.

We want to be sure that structures are created so that this discussion continues after E0 203 has been complied with, a police review committee may be one way to accomplish that continuing dialogue. Accountability has been addressed in some of the policies that we have reviewed but it is an overarching concept that is essential for a strong institutional culture and for mutual trust between the community and the police. The Sheriff's Office must engage in meaningful review of officer conduct, including use of force, to give the community confidence that misconduct is identified and the conduct is appropriately addressed. Much of the current unrest across the country is rooted in a belief that some police departments tolerate abuse of authority, including excessive force and other misconduct or adhere to practices that are inconsistent with community values. In the long run, this belief will harm police officers as well as degrade public safety. As the Committee develops it's plan, consider whether improvements are needed in community oversight structures, accountability mechanisms or other efforts to shape and maintain a healthy and productive institutional culture.

The attached outline is on the Conference of Mayors website and we thought that the Committee might find it helpful as they develop their plan.

Thank you again for the opportunity to provide input!

 **NYS_Police_Reform_and_Reinvention_Guidance_PDF.pdf**
187K



Bill Federice <federicebill@gmail.com>

Rural Awakening Comments on Schoharie County Draft Bias Based Policing (#401) and Portable Audio/Video Recorder Policy (#424)

2 messages

Pat Hults <hultsp@outlook.com>

Mon, Jan 18, 2021 at 7:25 PM

To: Bill Federice <federicebill@gmail.com>, "ronald.stevens@co.schoharie.ny.us" <ronald.stevens@co.schoharie.ny.us>, "bruce.baker@co.schoharie.ny.us" <bruce.baker@co.schoharie.ny.us>

Below is our response to the new drafts of policy #401 and #424. Thank you for providing an opportunity for input.

Patricia Hults

1. Bias Based Policing Policy;

Our only comment on this policy is that it is not enough that the policy provides that race based policing bias is not allowed, whether or not it is occurring has to be evaluated. In order to monitor if there are trends within the Sheriff's Office indicating bias, we recommend that the Sheriff annually review and analyze data collected by the New York State Unified Court System as part of the Police Statistics and Transparency Act (The Laws of New York Article 7-A: Judicial Administration, Section 212) which requires NYS courts to compile and publish racial and other demographic data for low-level offenses. This recommendation is part of the Village of Cobleskill draft plan.

2. Portable Audio/Video Policy

We were provided with a copy of the current County Policy BC120 "Provisions BODYCAM 'Body -worn Cameras' Recording System." This policy provided: " All Deputies and Investigators that have been issued a ...[body cam] shall wear it on their uniform at all times.....If assigned a [body camera] it shall stay in normal buffering mode during your shift. Whenever it is possible to do so, it shall be the policy of the SCSO to activate the [body camera] recording system in the scope of his/her duties. ...It will be the responsibility of each Deputy or Investigator that once the [body cam] has been activated, it shall not be deactivated until the law enforcement activity is completed, the deputy has left the scene or the citizen contact is complete." The policy also provides: "The system will be used to document various events and at the end of the Deputies and Investigators tour of duty, the captured data will be preserved, downloaded and stored on Sheriff's Office terra bit hard drives. Once captured, these recording cannot be altered in any way." Our only comment on that version of the policy was that body cam recordings should be made available to the public on a timely basis.

In June of 2020, New York enacted a new law that relates to body cameras that are to be worn by State Police (S8493/A8674). That new law, provides in part:

2. THE DIVISION OF STATE POLICE SHALL PROVIDE BODY-WORN CAMERAS, TO BE WORN BY OFFICERS AT ALL TIMES, WHILE ON PATROL. SUCH CAMERAS SHALL

RECORD:

- (A) IMMEDIATELY BEFORE AN OFFICER EXITS A PATROL VEHICLE TO INTERACT WITH A PERSON OR SITUATION, EVEN IF THERE IS A DASH CAMERA INSIDE SUCH VEHICLE WHICH MIGHT ALSO BE RECORDING THE INTERACTION;
- (B) ALL USES OF FORCE, INCLUDING ANY PHYSICAL AGGRESSION AND USE OF A NON-LETHAL OR LETHAL WEAPON;
- (C) ALL ARRESTS AND SUMMONSES;
- (D) ALL INTERACTIONS WITH PEOPLE SUSPECTED OF CRIMINAL ACTIVITY;
- (E) ALL SEARCHES OF PERSONS AND PROPERTY;
- (F) ANY CALL TO A CRIME IN PROGRESS;
- (G) INVESTIGATIVE ACTIONS WHERE THERE ARE INTERACTIONS WITH MEMBERS OF THE PUBLIC;
- (H) ANY INTERACTION WITH AN EMOTIONALLY DISTURBED PERSON; AND
- (I) ANY INSTANCES WHERE OFFICERS FEEL ANY IMMINENT DANGER OR THE NEED TO DOCUMENT THEIR TIME ON DUTY.

The draft policy recently provided to us, Policy 424 "Portable Audio Video Recorders" falls far short of requiring that officers use and actually turn on their body cams, it is far too subjective, leaving it up to an individual officer to decide when it may be "valuable" or "appropriate" to turn it on. It states in part:

"This policy is not intended to describe every possible situation in which the recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview situations.
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops.
- (c) Self-initiated activity in which a deputy would normally notify Dispatch.
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording.


....At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.”

This draft policy is replete with the use of the term “should” in places where the words “shall” “will” or “must” are more appropriate. Our recommendation is to hold members of the Sheriff’s Office to the standard now required of the State Police and follow no less than the straight forward, unequivocal approach taken by the State Legislature in this new law requiring that State Troopers record specific interactions with the public.

The other issue we have identified in the new draft policy is that it does not provide transparency and contain the clear direction that recordings must be preserved, shall be provided to the public on timely basis and that the recordings cannot be altered. However, it is possible that these provisions are contained in other policies. If so, we would appreciate receiving copies.

Thank you very much for the opportunity to comment.

3 attachments

 **424.pdf**
19K

 **County Current Bodycam Policy.pdf**
1645K

 **401.pdf**
10K

Bill Federice <federicebill@gmail.com>

Mon, Jan 18, 2021 at 7:31 PM

To: Bruce Baker <bruce.baker@co.schoharie.ny.us>, Candace Ellis <candace@ccalbany.org>, Dick Lape <lapelspc@midtel.net>, Duane Tillapaugh <duane.tillapaugh@co.schoharie.ny.us>, Harold Vroman <haroldvroman@aol.com>, John Leavitt <john.leavitt@co.schoharie.ny.us>, Pastor Ray Richards <pastorray@cagcobleskill.org>, Peggy Hait <jeffersontwinsup@gmail.com>, Ron Stevens <ronald.stevens@co.schoharie.ny.us>, Steve Weinhofer <stephen.weinhofer@co.schoharie.ny.us>, Patricia Hults <Hultsp@outlook.com>, Wendy Cook <wcook001@luthersem.edu>, Peter Harrison <kingdomnoyze@verizon.net>

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Chairman, Schoharie County Board of Supervisors

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Check out the official Town of Conesville Website at: