

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

July 12, 2021

4:30 PM

**Peace Officer Standards and Training Commission
Remote Participation**

PUBLIC MEETING MINUTES

Documents Distributed in Advance of the Meeting:

- Proposed Regulations on Use of Force

In Attendance:

- Chair Margaret R. Hinkle
- Commissioner Hanya H. Bluestone
- Commissioner Lawrence Calderone
- Commissioner Clementina M. Chéry
- Commissioner Larry Ellison
- Commissioner Marsha V. Kazarosian
- Commissioner Charlene D. Luma
- Commissioner Kimberly P. West
- Commissioner Michael Wynn

1. Call to Order

- The Chair recognized a quorum.

2. Discussion of Proposed Rules and Regulations Under Section 15(d) of Chapter 6E: “The commission and the municipal police training committee established pursuant to section 116 of chapter 6 shall jointly promulgate rules and regulations for the use of force by law enforcement officers consistent with this section and section 14; provided, however, that such regulations may authorize the use of necessary, proportionate and non-deadly force for purposes not explicitly specified in this chapter where de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances.”

- Chair Hinkle thanked Commissioner Kazarosian for her efforts preparing this draft, and reiterated her gratitude that Commissioner Kazarosian had volunteered to take on the primarily responsibility drafting the regulations for the Commission.
- Commissioner Kazarosian explained the differences between this draft and the prior draft. She received comments and feedback on the prior draft from other Commissioners last week. She incorporated edits she had originally made that no one objected to, and made revisions as suggested by other Commissioners.
- Commissioner Kazarosian reviewed the proposed regulations page by page.

- Discussion:

- Chair Hinkle asked Commissioner Kazarosian to explain what it means to “wait out a person.” Commissioner Wynn provided a quick explanation. Commissioners West, Ellison, and Calderone asked follow up questions about other related de-escalation strategies (placing a physical barrier between an individual and a police officer) and discussed the feasibility of including those strategies in the regulations. Commissioner Bluestone raised a question about the definition of de-escalation tactics, and whether feasibility is inherent in that definition. Commissioner Luma agreed that use of barriers should be included as a de-escalation tactic, understanding that it’s dependent on feasibility in a given situation.
 - The Commission voted on whether to include the language on barriers as a de-escalation strategy. Chair Hinkle, Commissioners Kazarosian, Chery, Bluestone, Luma, Wynn, and West voted in favor of including use of barriers as a de-escalation tactic. Commission Ellison opposed the inclusion. The Commission will include the language in the draft to propose to the MPTC and discuss accordingly.
- Commissioner West raised concerns about discrepancies between language provided for in the criminal justice legislation and MPTC’s draft. Commissioner Kazarosian agreed that the Commission should directly copy and paste the language from the legislation into the regulation.
- Commissioner Wynn asked Commissioner Kazarosian to clarify that because assault and battery is a misdemeanor, “non-violent” language should be included to clarify that officers are prohibited from using force against individual officers committing non-violent misdemeanors and felonies.
- Commissioner Calderone asked what tactics would be available to police officers when dealing with an uncooperative individual. Commissioner Wynn raised a concern that the Commissioners have different understandings on what the definition of “force” is. Commissioner Kazarosian proposed revising the language to include “except when objectively reasonable to effectuate arrest or detention.”
- Commissioner West asked the Commission to discuss the word “proportionate” in the term “proportionate force.” Chair Hinkle cautioned against the advisability of delving into that conversation. Commissioner West agreed that it may not be practical to address the topic today.

- Chair Hinkle asked the law enforcement officers to explain what “reaccess” means. Commissioners Calderone and Ellison expressed that in all likelihood it is a typo and is meant to read “reassess.” Commissioner Kazarosian confirmed that it was a typo.
 - Commissioner Wynn, Calderone, and Ellison raised concerns about being required to exhaust every means available of non-lethal force, prior to utilizing deadly force. Commissioner Kazarosian agreed to remove it from the guidelines.
 - Commissioner Calderone explained “kettling” and “encirclement.”
 - The Commission returned to discussing eliminating the requirement that an officer must exhaust every means available of non-lethal force, prior to utilizing deadly force, from the use of deadly force regulations.
 - Chair Hinkle asked Commissioner Kazarosian when she could circulate a revised proposed regulations. Commissioner Kazarosian said she could do so by the morning.
 - Mr. Povich suggested that the Commission plan to meet on July 22nd to discuss MPTC’s comments and feedback on POST’s proposed regulations.
3. New Business the Chair Did Not Anticipate at the Time of Posting
 - There were no questions from the public.
 4. Adjournment
 - Commissioner Kazarosian moved to adjourn the meeting.
 - The Commission unanimously voted to adjourn.