



Sheriff Michael L. Prozzo, Jr.
Chairman

State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
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Donald L. Vittum
Director

Approved Minutes

April 23, 2013

The 429th meeting of the New Hampshire Police Standards and Training Council was called to order at 9:05 a.m. by Chairman Michael J. Prozzo, Jr., in classroom one of the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Chairman Michael J. Prozzo, Jr., Sheriff of Sullivan County; Sheriff David Dubois, Strafford County, Vice Chancellor Ronald Rioux, Community College System of New Hampshire (arrived at 9:14 a.m.); Chief Peter Morency, Berlin Police Department; Chief David Cahill, Sunapee Police Department; Major Russell Conte (for Colonel Robert Quinn), New Hampshire State Police (left at 10:07 a.m.); Attorney General Michael Delaney (arrived at 9:07 a.m. and left at 9:22 a.m.) Judge James Carroll, 4th Circuit District Division, Laconia (arrived at 9:10 a.m.), Chief Anthony Colarusso, Dover Police Department; Judge Sawako Gardner, 10th Circuit District Division, Portsmouth (arrived at 9:19 a.m.); and Chief James Sullivan, Hampton Police Department (arrived at 9:08 a.m.).

Members Absent: Vice Chairman, Commissioner William Wrenn, New Hampshire Department of Corrections

Staff Present: Director Donald L. Vittum, Captain Benjamin Jean, Captain Mark Bodanza, Chief (ret.) Timothy Merrill.

Guests Present: Attorney James Rosenberg, Officer Royce Pelkey, Chief Todd Faulkner, and Lieutenant David Eldridge.

Approval of Minutes

Motion by Chief Colarusso for the Council to approve the minutes of the March 26, 2013 Council meeting, the motion was seconded by Chief Morency; the vote was unanimous to approve the motion 6-0.

Chairman Prozzo explained to the Council members that were present that he would be taking some of the agenda items out of order today.

Brynn Lovejoy Notice of Hearing pursuant to Pol 402.02 (d). This hearing was continued.

Clint Cassavaugh Notice of Hearing pursuant to Pol 402.02 (a) (12). This hearing was continued.

Chief David Seastrand -- Relinquish Certification. Captain Bodanza gave a summary of the case to Council members.

Motion by Chief Colarusso to accept Chief David Seastrand's relinquishment of certification, the motion was seconded by Chief Morency. Chief Cahill and Attorney General Delaney abstained from the vote, 6-0 in favor of the motion.

(This discussion was taking place as Chief Sullivan and Attorney General Delaney arrived at the meeting, therefore, Captain Bodanza repeated his summary).

Motion by Chief Dubois, seconded by Chief Colarusso that the staff post the relinquishment of David Seastrand's certification in the national decertification database, vote was 6-0 in favor of the motion, with Chief Cahill and AG Delaney abstaining.

Prior Training and Experience Requests Non-consent

Officer Brooke Sharra, Winchester Police Department

(DOH: 03/17/13) requests consideration for full-time police officer certification based on prior training and experience.

Captain Bodanza summarized the facts for Winchester Police Department's request regarding Officer Sharra. She has completed the Basic Law Enforcement Academy at St. Johns River State College in St. Augustine, Florida on December 9, 2011 and was granted certification on December 14, 2011. She has not held a position in law enforcement.

Motion by Sheriff Dubois, seconded by Chief Cahill to accept the staff's recommendation that Officer Sharra will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Full-Time Police Officer Academy. Council vote was unanimous 10-0 in favor of the motion.

Rule Changes

Chief Merrill summarized for the Council that the Final Proposals for Pol 404.07 and Pol 402.02 had been listed on the agenda for the Joint Legislative Committee for Administrative Rules (JLCAR) "Consent Calendar" for their April 19, 2013 meeting.

Proposed Rule Changes

Council members had made a request to staff for updated Form B's and a rule change to reflect their request. Chief Merrill advised that proposed drafts were attached to the agenda.

Motion by Chief Morency to move forward in the process of amending Form B's and a rule change, seconded by Chief Sullivan, with a unanimous Council vote in favor of this motion 10-0.

Previous/Unfinished Business

Hearings (NONPUBLIC SESSIONS)

Pursuant to RSA 91-A:3, II (a), these matters may be heard in a nonpublic session.

Royce Pelkey Notice of Hearing pursuant to Pol 402.02 (a) (8).

Officer Pelkey was present with his attorney, James Rosenberg. When asked by Chairman Prozzo, Attorney Rosenberg requested a non-public session for his client.

At 9:22 a.m. Attorney General Delaney recused himself from the hearing.

(Attorney General Delaney was thanked for his service to the Council by Chairman Prozzo and the Council members as he exited the meeting to attend to prior obligations).

At 9:24 a.m. Chief Colarusso **moved** that the Council go into a non-public session, the motion was seconded by Chief Morency. Chairman Prozzo took the roll call vote, including himself, 10-0.

At 10:04 Chief Cahill **moved** that the Council seal the nonpublic minutes, the motion was seconded by Chief Colarusso. Council vote was 9-0 in favor of the motion.

By **motion** of Chief Cahill, seconded by Chief Colarusso the Council came out of the nonpublic session. Chairman Prozzo took the roll call vote, including himself, 10-0.

Motion by Chief Cahill to revoke Officer Royce Pelkey's certification, the motion was seconded by Sheriff Dubois,

Chairman Prozzo asked for discussion of Chief Cahill's motion to revoke.

Chief Colarusso summarized that in spite of the fact that he felt badly, what Officer Pelkey had done was a serious offense, he had forged a physician's signature. Chief Colarusso went on to say that if this was someone who worked for him, the person would be terminated, and as a member of the Council he thought the revocation was warranted.

Chief Cahill commented further, that he could echo Chief Colarusso's sentiments, and stated if the issue had been a chemical dependency it may have been managed through rehabilitation. Chief Cahill stated that he was a former prosecutor, and he had to take into consideration the integrity of someone "on the stand" constantly being questioned, and there was no other option but to revoke his certification.

Chief Colarusso added that according to Council rules, it says "shall revoke", and he could find no reason why the certification should not be revoked.

Chairman Prozzo called for the vote at this point.

Council vote was 9-0 in favor of the motion.

10:06 a.m. Council members took a break, and Major Conte exited the meeting.

10:20 a.m. the Council meeting was back in session.

Consent Calendar

Requests for Extensions

Note: Extensions granted until fitness testing for requested Academy, and, if testing is successful, through the end of the requested Academy.

Full-Time Police Officer Academy

161st Academy June 10, 2013 to September 13, 2013; entrance fitness test May 28, 2013

162nd Academy September 16, 2013 to December 20, 2013; entrance fitness test September 3, 2013

163rd Academy January 6, 2014 to April 10, 2014; entrance fitness test December 6, 2013.

Part-Time Police Officer Academy

264th Academy June 15, 2013 to August 2, 2013; entrance fitness test June 1, 2013.

265th Academy August 10, 2013 to November 9, 2013; entrance fitness test July 27, 2013.

(Extensions Full Time)

Officer Alan Lowe, Claremont Police Department

(DOH: 02/14/13 Not Part-time certified) Was granted the extension through the date of the entrance fitness test and, if testing is successful, through the end of the 161st Full Time Academy with the stipulation that Officer Lowe must remain actively enrolled in the 161st Academy, and may continue to work only in the direct presence of a certified officer.

Officer Brian Lull, Claremont Police Department

(DOH: 02/21/13 Not Part-time certified) Was granted the extension through the date of the entrance fitness test and, if testing is successful, through the end of the 161st Full Time Academy with the stipulation that Officer Lull must remain actively enrolled in the 161st Academy, and may continue to work only in the direct presence of a certified officer.

Officer Mark Pierce, Lee Police Department

(DOH: 03/04/13 Not Part-time certified) Was granted the extension through the date of the entrance fitness test and, if testing is successful, through the end of the 161st Full Time Academy with the stipulation that Officer Pierce must remain actively enrolled in the 161st Academy, and may continue to work only in the direct presence of a certified officer.

Officer Michael O'Connor, Exeter Police Department

(DOH: 02/19/13 Not Part-time certified) Was granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 161st Full Time Academy with the stipulation that Officer O'Connor must remain actively enrolled in the 161st Academy, and may continue to work only in the direct presence of a certified officer.

(Extensions Part Time)

Officer Andrew Phillips, Sanbornton Police Department

(DOH: 12/09/12) Was granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 264th Part Time Academy with the stipulation that Officer Phillips must remain actively enrolled in the 264th Part Time Academy and may continue working only in the direct presence of a certified officer.

Deputy Robert Lombard, Hillsborough County Sheriff's Department

(DOH: 09/07/12) Was granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 264th Part Time Academy with the stipulation that Deputy Lombard must remain actively enrolled in the 264th Part Time Academy and may continue working only in the direct presence of a certified officer unless he has completed the department's FTO program successfully, and only then, under normal supervision.

Officer Joshua Esty, Charlestown Police Department

(DOH: 11/26/12) Was granted an extension through the date of the entrance fitness test and, if testing is successful, through the end of the 264th Part Time Academy with the stipulation that Officer Esty must remain actively enrolled in the 264th Part Time Academy and may continue working only in the direct presence of a certified officer.

Requests for Specialized Training Grant Funds (Balance: \$11,179.83)

Campton Police Department was granted funds for Sgt Patrick Payer to attend the Reid Technique Interview and Interrogation course at the Portsmouth, New Hampshire Police Department from May 20 to May 23, 2013.

Officer Alan Patterson, Hanover Police Department

Certification reinstated after a fitness testing suspension.

End of consent items.

Motion by Chief Sullivan seconded by Chief Cahill to approve the consent calendar, the Council voted unanimously in favor of the motion 8-0.

Other New Business

Somersworth Police Department

No one was present from Somersworth Police Department. Director Vittum expressed that he had been in touch with Chief Crombie regarding his request, and he was aware that it would be discussed at this meeting.

Director Vittum summarized that Somersworth Police Department has hired several uncertified officers. Those uncertified officers had been granted extensions before admission to the Academy.

The Council had decided that any uncertified officer working during an extension must always be accompanied by a certified officer, aka, attached at the hip. Chief Crombie has difficulty because of staffing and would like to send uncertified officers out to patrol after they have completed the FTO program at Somersworth.

Director Vittum stated that he had explained to Chief Crombie that this was a question that the Council would have to answer, not the Director. Council members expressed that since there was no request there was nothing to discuss.

Appointments and re-appointments to Council.

Council members Sheriff Dubois who was newly appointed, Judge Gardner, Chief Sullivan and Judge Carroll who had been re-appointed were congratulated and thanked for their ongoing commitment to serve on the Council.

Rockingham County Attorney James Reams

Had asked to speak with Council about requesting information from the PSTC database. This request was rescheduled to the May 28th Council meeting.

Requests for Proposals, Training Calendar (this item was not addressed).

Letter from Jessica Bills re: waivers for past indiscretions

Chairman Prozzo asked for a summary of this request. Director Vittum stated that staff had received a letter from a woman who was asking about a waiver from the "lifetime bar" from law enforcement employment due to drug involvement in the past. Chief Merrill confirmed that she had been invited to the Council meeting to speak about her request. The woman's request was, who could change this rule. The individual in question had an issue when he was a juvenile, and an additional issue as an adult while in the military.

Captain Bodanza explained to Council members that rule Pol 301.05 (g) deals with drugs, and there is a lifetime bar from law enforcement employment for anyone who has ever sold or given away a controlled substance.

Chief Merrill stated that the woman had been given a copy of the rule and a letter stating that the hiring authority must make the decision in the first instance. Director Vittum agreed and stated that once a Form A is received and staff is aware of the "issue" with the individual, then it would be a Council decision for certification. If the agency completes

a proper background investigation, becomes aware of an issue but still wants to hire the individual, they have an opportunity to speak to the Council.

Director Vittum expanded on this subject, this was discussed a few years ago, and the Attorney General was going to lead a group of Council members to redraft a rule change that would not be a lifetime bar. Staff has never received any follow up documents from the Attorney General's office in order to move forward with a rule change. Staff remains in a holding pattern waiting to see new language to begin the rulemaking process.

Without a change in the rules, the rules are followed as they are written currently. Chief Merrill interjected that the Council had asked the staff and Nancy Smith, Senior Assistant Attorney General, to begin by drafting something. The draft was brought before the Council; the Council thought that the draft rule submitted was too broad. At that point the Council appointed a committee of Council members to follow up. When asked by the Chairman, Chief Merrill stated that committee members were Commissioner Wrenn, Judge Roberts, the Attorney General and Chief Sullivan. The committee had been formed in March of 2011.

Judge Carroll agreed to participate on this committee, and Chief Sullivan will Chair the committee. The item will stay on the agenda to be discussed at a future meeting.

Firearms

Chairman Prozzo asked that the item presented by retired Chief Lary on firearms remain on the agenda. Director Vittum asked if Chief Cahill could be on that committee representing the Council to oversee the entire process. Chairman Prozzo agreed, and Chief Cahill stated that he had met with Captain Mulla and with Chief Lary in the past week regarding the matter.

Director's Report

Director Vittum spoke on the following matters.

Laurie listing

Director Vittum explained to Council members that he had received a letter from the Attorney General's office, informing him of the name of an individual who was to be on a Laurie listing. The Director returned the letter as he feels that Police Standards and Training Council should not be involved, "Laurie is between courts and the police departments". Further discussion began on the subject, and Judge Gardner reiterated Director Vittum's statement, "It is a prosecutorial function, it has nothing to do with training records, I think we should stay away from it".

Chairman Prozzo agreed, and stated there was no need for a motion, but he would execute a letter drafted by the staff to follow up on this matter with the Attorney General's Office.

County Corrections

Director Vittum notified Council members that the County Corrections Academy had added fitness training to their curriculum without that training being sanctioned by PSTC. In order to use the Council facility for physical training, they must sign a waiver.

PSTC does not certify County Corrections, but it does approve their curriculum. The Council sanctioned the County Corrections original curriculum, Director Vittum wanted

to be sure that the Council members were aware that County Corrections added to the curriculum (by introducing fitness training) without prior approval of the Council.

Chairman Prozzo agreed to follow up in writing on this as well, executing a letter drafted by PSTC staff.

Discussion ensued about certifications of County Correction's officers.

Budget

Director Vittum and Captain Jean summarized their meeting with the senate which had been held two weeks prior to today's Council meeting. A copy of the report was provided to the Council members (attached).

Senate

Director Vittum updated Council members about the potential request for performance audit by Senate members, specifically the facts about the cost to PSTC for a performance audit. The Director stated that Hilary Denoncourt and Captain Jean had been communicating with Senators Morse and Bradgon.

The Director's first concern was who would pay for the audit. The Senate has stated that PSTC would not be charged for a performance audit, (however this statement is incorrect according to the statute). The last audit, which was a financial audit, was paid for by Police Standards and Training at a cost of \$58,000. The Director's second concern was that he did not know the purpose of the audit.

Council members gave Director Vittum their support, stating that they knew he would always do the right thing, if called upon they would support him, they had faith that he would "take the high road" in political matters. Vice Chancellor Rioux asked Director Vittum if any of the Senate members taking issue with PSTC performance had been to the Academy and taken a tour. Director Vittum responded that they had been invited but had not attended a facility tour.

Motion by Sheriff Dubois, Council supports the Director and staff; and there is no need for Council members to accompany staff for meetings, the motion was seconded by Chief Morency. Council members voted unanimously in favor of the motion, 8-0.

Chairman Prozzo stated that at some time in the near future, Council members should complete an evaluation of Director Vittum, potentially in July or August of this year.

Next Meeting Date/Adjournment

The next meeting (#430) of the New Hampshire Police Standards and Training Council will be held on May 28, 2013, at nine o'clock in the morning, Commissioner Wrenn had been asked by Chairman Prozzo, and he agreed to chair the meeting.

Motion by Chief Sullivan, seconded by Chief Cahill, the Council voted unanimously to adjourn the meeting at 11:36 a.m.

Respectfully submitted,



Vice Chairman William Wrenn