

***Approved Minutes***  
***December 21, 2010***

***Call to Order***

The 402<sup>nd</sup> meeting of the New Hampshire Police Standards and Training Council was called to order at 9:14 a.m. by Vice Chairman William L. Wrenn Jr., Commissioner, New Hampshire Department of Corrections, at the John O. Morton conference room at Police Standards and Training in Concord, New Hampshire.

***Members Present:*** William L. Wrenn Jr., Commissioner, New Hampshire Department of Corrections; Associate Justice Stephen H. Roberts, Dover District Court; Chief Anthony Colarusso, Dover Police Department; Associate Justice Norman E. Champagne, Manchester District Court; Colonel Robert Quinn, New Hampshire State Police; Richard Foote, Sheriff of Cheshire County; Chief Gregory C. Dodge, Epping Police Department; Chief James Sullivan, Hampton Police Department.

***Members Absent:*** Chairman Michael L. Prozzo, Jr., Sheriff of Sullivan County, Chief Peter Morency, Berlin Police Department; Michael A. Delaney, Attorney General; and, Vice Chancellor Charles Annal, Community College System of New Hampshire..

***Staff Present:*** Director Donald Vittum, Lieutenant Mark Bodanza, Captain Thomas McCabe, Captain Benjamin Jean, Captain Mark Varney, Chief (ret.) Timothy Merrill, Investigative Paralegal Anne Paquin, Council Secretary Kathryn Day, and Program Assistant Lorelee Ames.

***Others Present:*** Assistant Attorney General Nancy Smith; Gaming Enforcement Investigators Peter Rheume and Colin Daniels, and Mr. Marc Abear of the State Employees Association; Officer Christopher Murphy, Tilton Police Department, his parents, William and Linda Murphy, and Ms. Danielle Brudnick; CO Sylvia Preda, CO Claudia Cass, Corporal Sharon Cerretani, and Lieutenant Brian Baxter of the New Hampshire Department of Corrections; Chief William O'Brien, Gilmanon Police Department; CO David Sisk and Captain Chris Shaw of the New Hampshire Department of Corrections; and, Chief (Ret.) Steven Baldwin, formerly of Hancock Police Department.

***Approval of Minutes***

Chief Dodge noted an amendment to the minutes of November 23, 2010: *On Page 5, the Council vote on Merrimack County Sheriff's request was 8-1, (Chief Dodge opposed), not 8-0.*

**Chief Dodge moved to approve the minutes of November 23, 2010, as amended. Following a second by Chief Colarusso, the Council voted 8-0 in favor.**

***Director's Report***

No comments or questions were raised by the Council members. Director Vittum had no additional remarks.

***Previous and/or Unfinished Business***

No previous business was brought forward.

The following matters were tabled on this day and will be included in the agenda for the next Council meeting on January 25, 2011:

1. Proposed Amendment to Pol 301.05 (Rule Change)
2. Full-Time Academy Testing Proposal
3. New Hampshire State Voluntary Accreditation (Discussion)
4. Approve re-accreditation for Newton Police Department

***New Business***

**NONPUBLIC SESSION: CO David Sisk, New Hampshire Department of Corrections**

Acting Chairman Dodge convened a hearing for Corrections Officer Sisk to show cause why the Council should not suspend or revoke his Corrections Officer certification pursuant to Pol 402.02 (a) (12). CO Sisk was accompanied by one witness, Captain Chris Shaw of the NH DOC. CO Sisk expressed his desire for the matter to be held in a nonpublic session.

Chief Sullivan moved for the Council to enter into a nonpublic session, as provided in RSA 91-A:3, II (a), to discuss personnel issues. Chief Colarusso seconded the motion and the Council voted 7-0 in a roll call vote (Commissioner Wrenn recused himself from this hearing). The nonpublic session commenced at 10:55 a.m.

Justice Roberts moved that the minutes of the nonpublic session be sealed. Following a second by Chief Sullivan, the motion carried on a voice vote, 7-0.

Colonel Quinn seconded Chief Colarusso's motion for the Council to exit the nonpublic session. The roll call vote of the Council was 7-0. The nonpublic session concluded at 11:07 a.m.

In public session, Justice Roberts put forth a motion:

**MOVED: That the Council take the matter of CO David Sisk under advisement to allow the Council members additional time to review the Exhibits of the case.**

After a second by Chief Colarusso, the Council voted 7-0 in favor.

**Officer Christopher Murphy, Tilton Police Department**

Acting Chairman Dodge convened a hearing for Officer Murphy to show cause why the Council should not suspend or revoke his certification pursuant to Pol 402.02 (a) (3) and 402.02 (a) (4) (b) and (d). Officer Murphy appeared with three witnesses: Linda Murphy, William Murphy, and Danielle Brudnick. Officer Murphy indicated that he wished for the matter to be heard in a nonpublic session.

NOTE: Colonel Quinn recused himself from this hearing, and Commissioner Wrenn was absent for this hearing.

Chief Colarusso, with a second by Chief Sullivan, moved for the Council to enter into a nonpublic session as provided in RSA 91-A:3, II (a). A roll call vote was unanimous in support, 6-0. The nonpublic session commenced at 11:18 a.m.

Chief Sullivan moved to seal the minutes of the nonpublic session. Justice Roberts seconded the motion, and the Council voiced unanimous support, 6-0.

Chief Colarusso, with a second by Chief Sullivan, moved for the Council exit the nonpublic session. The Council voted 6-0 in a roll call vote to conclude the nonpublic session at 11:43 a.m.

In public session, Justice Roberts put forth a motion:

**MOVED: That the Council take the matter of Officer Christopher Murphy under advisement to allow the Council members additional time to review the Exhibits of the case.**

After a second by Chief Sullivan, the Council voted 6-0 in favor.

### **CONSENT CALENDAR**

The Council considered staff recommendations on a variety of requests included in the Consent Calendar, including one additional request for an extension to attend the Part-Time Academy (Addendum #6).

**Following a motion by Chief Sullivan, seconded by Sheriff Foote, the Council voted 6-0 to approve the Consent Calendar as amended (Vice Chairman Wrenn and Colonel Quinn absent).**

### **APPROVED CONSENT CALENDAR**

#### **PT&E Requests**

##### **Officer Daniel M. Garcia, Concord Police Department**

Full-time certification based upon prior training and experience will be granted upon successful completion of a medical exam, entrance fitness test, and the Law Package of the Full-Time Academy, providing First Aid/CPR certification is current.

#### **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**

154<sup>th</sup> Academy 01/03/11 – 04/08/11 (fitness test 12/20/10)

155<sup>th</sup> Academy 04/25/11 – 07/29/11 (fitness test 04/11/11)

##### **Officer Kurtis L. Boissonneault, New Castle Police Department**

An extension was granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154<sup>th</sup> Academy, with the stipulation that Officer Boissonneault must remain actively enrolled in the requested academy.

##### **Part-Time Police Officer**

259<sup>th</sup> Academy 02/05/11 – 05/06/11 (fitness test 01/22/11)

##### **Officer Joshua D. Bergeron, Hill Police Department (Addendum #6)**

An extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259<sup>th</sup> Academy, with the stipulations that Officer Bergeron must remain actively enrolled in the requested academy and may continue working only in the direct presence of a certified officer.

##### **Officer Craig S. Goodrich, South Hampton Police Department**

An extension was granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259<sup>th</sup> Academy, with the stipulation that Officer Goodrich may continue working only in the direct presence of a certified officer.

##### **Officer William T. Palya, Dalton Police Department**

An extension was granted through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259<sup>th</sup> Academy, with the stipulation that Officer Palya may continue working only in the direct presence of a certified officer.

### **Requests for Specialized Training Grant Funds**

**Belmont Police Department** was granted funds for Chief Vincent Baiocchetti to attend the 14<sup>th</sup> Annual New England Law Enforcement Executive Development Seminar (LEEDS) sponsored by the FBI in Uncasville, Connecticut, from February 6 through 11, 2011. **Amount: \$926.67**

**Campton Police Department** was granted funds for Chief Christopher Warn to attend the 14<sup>th</sup> Annual New England Law Enforcement Executive Development Seminar (LEEDS) sponsored by the FBI in Uncasville, Connecticut, from February 6 through 11, 2011. **Amount: \$936.66**

**(END APPROVED CONSENT CALENDAR)**

### ***Other New Business***

#### **NONPUBLIC SESSION: CO Silvia Preda, New Hampshire**

CO Preda's initial compliance date was December 31, 2008. CO Preda requested additional time to comply with ongoing physical fitness requirements for medical reasons. This matter was heard in nonpublic session as requested by CO Preda. Commissioner Wrenn recused himself from this hearing and appointed Chief Dodge as Acting Chairman.

Chief Colarusso moved for the Council to enter into a nonpublic session, as provided in RSA 91-A:3, II (a). Following a second by Sheriff Foote, the Council voted in a roll call vote, 7-0, with Commissioner Wrenn recused. The nonpublic session commenced at 10:11 a.m.

Justice Champagne, seconded by Sheriff Foote, moved that the minutes of the nonpublic session be sealed. The voice vote of the Council was 7-0 in favor.

Chief Colarusso, with a second by Colonel Quinn, moved for the Council to exit the nonpublic session. The roll call vote of the Council was 7-0 in favor. The nonpublic session concluded at 10:30 a.m.

**No action was taken on CO Preda's request because the Council has no statutory authority to grant this request. AAG Nancy Smith advised that a request from CO Preda's employer for a reasonable accommodation may be considered and the Council may grant a waiver as necessary to comply with state and federal law (ADA).**

In public session, William L. Wrenn, Jr., Commissioner of the New Hampshire Department of Corrections submitted a request on behalf of CO Silvia Preda:

*"Dear Members of the Police Standards and Training Council:*

*I am requesting a waiver of the physical fitness requirement of a one-and-half-mile run for our Corrections Officer Silvia Preda due to a medical condition. In accommodation for that medical condition, she will continue in her position as a Corrections Officer with the New Hampshire Department of Corrections and will be permanently assigned to the Calumet Transitional Housing Unit.*

*I am asking for this waiver to comply with federal and state law whereby the Police Standards and Training Council may grant a waiver with respect to employment at the NHDOC to this officer who cannot meet the standards set forth in RSA 188-F:27, III (d), (g), and (j)."*

Justice Roberts put forth the following motion:

**MOVED: That the Council approve the request submitted by the Commissioner of the New Hampshire Department of Corrections for a waiver of the one-and-a-half mile run component of the ongoing physical fitness test, for a period of twelve months, at which time a similar request for a waiver by the Commissioner of the New Hampshire Department of Corrections may be considered.**

Following a second by Chief Sullivan, the Council voted 7-0 in favor.

#### **CO David Burns, New Hampshire Department of Corrections**

CO Burns did not attend the meeting to present his request for additional time to comply with ongoing physical fitness requirements for medical reasons. CO Burns' initial compliance date was December 31, 2008. NOTE: Commissioner Wrenn recused himself from this hearing.

The Council reviewed the background information presented by Lieutenant Mark Bodanza and concluded that no action is required because the Council has no statutory authority to grant an extension beyond two years, absent a request for "a reasonable accommodation" for medical reasons.

#### **NONPUBLIC SESSION: Chief William O'Brien, Gilmanton Police Department**

Chief O'Brien presented two requests for the Council's consideration:

1. Extension to Comply with Requirements for Ongoing Physical Fitness Testing
2. Extension to Comply with Requirements to Maintain Firearms Instructor Certification

At Chief O'Brien's request, this matter was heard in nonpublic session, as provided in RSA 91-A:3, II (c). Chief Dodge, with a second by Colonel Quinn, moved that the Council enter a nonpublic session to discuss personal medical information. The roll call vote of the Council was unanimous in favor, 8-0. The nonpublic session commenced at 11:54 a.m.

Chief Dodge, with a second by Chief Colarusso, moved that the minutes of the nonpublic session be sealed. The voice vote of the Council was 8-0 in favor.

Chief Dodge further moved that the council exit the nonpublic session. With a second by Chief Colarusso, the Council voted 8-0 in support. The nonpublic session concluded at 12:06 p.m.

**In public session, Justice Roberts moved that the Council require Chief O'Brien must attempt to comply with requirements for ongoing physical fitness test or submit a medical waiver by December 31, 2010, and, if not successful, the Council will grant an extension through June 30, 2011.**

Following a second by Chief Sullivan, the voice vote of the Council was in support of motion, 8-0.

**Justice Roberts moved further that the Council deny Chief O'Brien's request for an extension to comply with requirements to maintain Firearms Instructor Certification, because the Council Rules do not provide for such a waiver.**

Following a second by Chief Sullivan, the Council voted 8-0 to support the motion to deny the extension.

#### **2010 Compliance**

The Council reviewed the minutes of their December 2009 meeting and the action taken by the Council regarding compliance with requirements for ongoing physical fitness testing in 2009; that is, the deadline of midnight on December 31 will be upheld and any requests for extension due to medical reasons received by that date will be considered at the January meeting, without suspensions imposed in the intervening weeks.

**Judge Roberts moved that any additional requests for extension for fitness extension received by December 31, 2010, will be considered at the next meeting of the Council on January 25, 2011, and suspension of certification would be held in abeyance during the interim period.**

Following a second by Chief Sullivan, the motion carried on a unanimous voice vote.

**Requests for Fitness Testing Extension**

The Council considered staff recommendations for requests on the published agenda from officers that require an extension of time to comply with requirements for ongoing physical fitness testing. The Council also reviewed additional requests submitted in Addendum #1. Chief Dodge, with a second by Justice Roberts, moved that the Council grant an extension to all of these officers. The Council voted 8-0 in support.

**Officer Michael Beaulieu, Springfield Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**CO Wayne Bugbee, NH Department of Corrections**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Scott Cain, Kensington and Hampton Falls Police Departments**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Eric Cartier, Allenstown Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Timothy Charbonneau, Lancaster Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**CO Alexander Dion, NH Department of Corrections**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Antonio Duquette, Manchester Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Jason Dzierlatka, Windham Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Christopher Fowler, Franconia Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Christopher Hart, Franklin Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Deputy Thomas Kalantzis, Hillsborough County Sheriff's Office**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Renee King, Fremont Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Detective Dennis P. Lee, Nashua Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011

**Officer Glen Lucas, NH Fish and Game Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Chief Dennis MacKay, Bath Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Katherine R. Marcos, Concord Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Joseph M. Marquay, Charleston Police Department, et al**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Sean M. McCarty, Belmont and Gilmanton Police Departments**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Peter Moisakis, Hampton Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Theresa Moore, Windham Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**CO Carrie Sargent, New Hampshire Department of Corrections**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Bryant Scott, Strafford Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**CO Linda Susca, New Hampshire Department of Corrections**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Scott Talbot, Surry Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Richard Telifson, Concord Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Investigator Allison Vachon, Office of the Attorney General**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Trooper Andrew Vittoria, New Hampshire State Police**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

**Officer Brett Wells, Brentwood Police Department**

An extension was granted for six months beyond the date for compliance with ongoing physical fitness testing until July 1, 2011.

***General (Discussion)***

**Racing & Charitable Gaming Commission Enforcement Officers (Status).**

At their request, Gaming Enforcement Officers (Investigators) Peter Rheume and Colin Daniels were granted an opportunity to address the Council regarding the current status of their New Hampshire law enforcement certifications. Mr. Marc Abear of the State Employees Association also spoke on their behalf. At issue was the ability for Mr. Rheume and Mr. Daniels to attend in-service training and other training required to maintain their certification without an approved request from the Racing & Charitable Gaming Commission. Mr. Abear contended that the intent of the Legislature was for their certifications to be continued following their transfer from the Department of Safety in 2005. Mr. Abear brought forward their request for the Council to uphold their certifications as still valid until such time as the ongoing grievance process is resolved with the RCGC; a hearing with an arbitrator needs to be scheduled pending a decision from the State Labor Management Committee that has already heard their case.

Director Vittum and Vice Chairman Wrenn read into the record correspondence received from Paul M. Kelley, Director of the Racing and Charitable Gaming Commission. In his letter, Mr. Kelley states that, "...RCGC has never required or denied any Police Standards and Training Council training to the Investigators. The job descriptions (JDs) and supplemental job descriptions (SJDs) pertaining to the Investigators does not require any sort of Police Standards and Training Council training ... " And, "The RCGC is not a governmental unit which employs police officers. The RCGC has never sworn in the Investigators as law enforcement officers, or required the Investigators to carry weapons, execute search/arrest warrants, or adhere to any other traditional police officer requirements."

After a lengthy discussion with Mr. Rheume, Mr. Daniels, and Mr. Abear, and consultation with legal counsel, the Council reached the following conclusions:

1. Form Bs submitted to Police Standards and Training Council in January 2005 by Colonel Booth of New Hampshire State Police indicated that Mr. Rheume and Mr. Daniels had terminated employment with that agency upon their transfer to the Pari-Mutuel Commission.
2. Lacking a Form A submitted by the Pari-Mutuel Commission to Police Standards and Training Council, the certifications of both Mr. Rheume and Mr. Daniels lapsed after 30 days following the termination of their employment with the Department of Safety. (Pol 401.01 (a)).

3. Following their transfer to the then-Pari-Mutuel Commission, Mr. Rheume and Mr. Daniels continued to complete their ongoing training requirements in the next two years and this training was paid for by their agency. Lieutenant Bodanza confirmed that year-end compliance documentation was last submitted by RCGC in January 2008 for the 2007 required training. No subsequent annual compliance report was submitted. Any training completed in 2008 and later may be included with a request for certification granted based upon prior training and experience.
4. Following a reorganization of the Pari-Mutuel Commission, thereafter named the Racing and Charitable Gaming Commission, law enforcement certification is not required for Mr. Rheume and Mr. Daniels to continue their employment with the RCGC.
5. Form Bs were submitted by Director Kelley in 2006 advising that Mr. Daniels and Mr. Rheume had been promoted within the RCGC as assistant gaming enforcement supervisors. Without the preceding Form As being submitted, these Form Bs were not taken into consideration by the Council, and the Council draws no conclusion about the intent of the hiring authority (Director Kelley).
6. The Loudon Police Department submitted a Form A indicating the hiring of Mr. Rheume as a part-time officer in 2005. He continues to be employed with that agency and has maintained part-time police officer certification.
7. The Council has no authority to waive statutory requirements for annual training.

The Council reached the consensus that no action on their part was appropriate in this matter, due to a lack of standing on the part of Mr. Rheume and Mr. Daniels. Commissioner Wrenn advised Mr. Rheume and Mr. Daniels that the Council may consider a request to grant full-time police certification based upon prior training and experience if a Form A is submitted by a hiring authority.

#### **Attendance at PSTC Training by Non-Police Personnel**

Chief (ret.) Steven Baldwin, formerly of Hancock Police Department, requested to address the Council to receive their approval to attend training programs offered by Police Standards and Training as a non-police personnel.

Chief Baldwin stated that he has completed requirements for ongoing physical fitness testing in order to maintain his part-time police officer certification. He asked the Council to permit him to attend training at Police Standards and Training in order to comply with requirements for annual training if space is available. He offered to conduct training at no charge to compensate for training he might receive.

Chief Baldwin stated that he had retired within the last 18 months and is considering accepting a position as a part-time investigator or prosecutor for the Hancock Police Department.

Acting Chairman Wrenn advised that Chief Baldwin may be permitted to attend training for a fee, providing that space is available. The consensus of the Council is that Pol 302.13 Attendance by Non-Police Personnel gives the Director the authority to approve such a request if it is "within the public interest." Specifically, if space is available and there is no reason to restrict attendance to only police personnel the Director is authorized to grant such a request.

Acting Chairman Wrenn also advised that, under the Council Rules, Chief (ret.) Baldwin's most recent certification lapsed after 30 days following his retirement from the Hancock Police Department; however, any interim training could be included in a request from a hiring authority for the Council to grant certification based upon prior training and experience.

***Next Meeting/Adjournment***

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday, January 25, 2011, at nine o'clock in the morning, at 17 Institute Drive in Concord, New Hampshire.

Upon a motion by Chief Colarusso, seconded by Chief Sullivan, and the unanimous support of the Council, the meeting was adjourned at 12:28 p.m.

Respectfully submitted,

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Vice Chairman William L. Wrenn, Jr.