



Chief Anthony F. Colarusso, Jr.  
Chairman

**State of New Hampshire**  
**POLICE STANDARDS & TRAINING COUNCIL**  
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Approved Minutes PSTC Meeting



Donald L. Vittum  
Director

July 28, 2015

The 456th meeting of the New Hampshire Police Standards and Training Council was called to order at 9:10 a.m. by Chairman, Chief Anthony F. Colarusso, Jr. in classroom one at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Chairman, Chief Anthony Colarusso, Jr.; Attorney General Joseph Foster; Executive Major David Parenteau, New Hampshire State Police; Sheriff Douglas Dutile, Grafton County; Dr. Ekaterina Hurst, DHHS; Ms. Paula Wall, Crisis Center of Central New Hampshire; Judge Sawako Gardner, 10th Circuit District Division, Portsmouth; Judge James Carroll, 4th Circuit District Division; Laconia; and Chief William Hart, Londonderry Police Department.

Members Absent: President Susan Dunton, Community College System of New Hampshire; Vice Chairman, Commissioner William L. Wrenn, New Hampshire Department of Corrections; Chief David Cahill, Sunapee Police Department; Sheriff David Dubois, Strafford County; and Chief Peter Morency, Berlin Police Department.

Staff Present: Chief Timothy Merrill and Captain Mark Bodanza

Guests Present: Gary Burke with Attorney David Horan; Robert Gauthier with Attorney John Draghi; and Attorney John Krupski

#### Approval of Minutes

Judge Carroll moved for the Council to approve the minutes of the June 23, 2015 meeting. The motion was seconded by Chief Hart, the council vote was unanimous in favor of the motion.

The Financial Report was provided in writing.

Citizens for Truth, the staff explained that the interviews were complete, the information from the clerk of the district court was being gathered and should be provided shortly.

#### Dennis Fitton, CO, New Hampshire Department of Corrections

The case had been nolle prossed, staff had been provided documents by Attorney Sisti.

#### Council Committee on Funding

The council members formed a committee to research sources of revenue for the academy. Sheriff Dutile, Chief Hart and Dr. Hurst agreed to participate, with Sheriff Dutile as chairman of the group. The group will ask for input from Director Vittum, and they will provide information each month at the council meetings.

Recruit Separation

A recruit from the current part time academy was withdrawn from the program by their agency.

Recruit Withdrawal

A recruit was withdrawn by their agency from the full time academy.

Christopher Aucoin Pol 402.02 (b) temporary suspension.

Attorney John Krupski was present for his client, he requested a nonpublic session.

Executive Major Parenteau and Attorney General Foster recused themselves and exited the meeting room.

Motion by Judge Gardner, seconded by Sheriff Dutile, to begin a nonpublic session for personnel reasons, the roll call vote was unanimous in favor of the motion.

At 9: 17 the Council began a nonpublic session

Motion to exit the nonpublic session by Judge Gardner, seconded by Paula Wall, the roll call vote was unanimous in favor of the motion.

9:21 the Council was back in public session.

Motion to seal the minutes of the nonpublic session by Judge Gardner, seconded by Dr. Hurst, the council vote was unanimous in favor of the motion.

Executive Major Parenteau and Attorney General Foster returned to the meeting room.

The case was granted a continuance until the August 24, 2015 meeting.

Robert Gauthier Jr. Pol 402.02 (b) temporary suspension

Mr. Gauthier was present, with his attorney, John Draghi, and requested a public session.

Captain Bodanza read the rule, Pol 402.02 (b), and also read the Merrimack County Grand Jury's Indictment of Mr. Gauthier into the record, reckless conduct, falsification of documents or evidence resulting in unsworn falsification, false testimony or evidence tampering.

Robert Gauthier had been granted a continuance at the June council meeting for his hearing upon the basis that he was not working.

He has retired from the New Hampshire Department of Corrections, however he is still certified as a part time officer with the town of Pittsfield; he will not work until the matter at hand is resolved.

Chairman Colarusso explained that the scope of the hearing today was for a temporary suspension only; and that a request for continuance might be considered.

After consulting with his client, Attorney Draghi requested and was granted a continuance to the August 25, 2015 council meeting.

Gary Burke, Pol 402.02 (b) temporary suspension

Mr. Burke was present with his attorney, David Horan, they request a public session.

Attorney General Foster and Executive Major Parenteau recused themselves from this hearing.

Captain Bodanza was sworn in by Chairman Colarusso and then he explained that the notice of hearing was for a temporary suspension of his correction's officer certification, Pol 402.02(b), (c) 7. Captain Bodanza read the rule into the record, the element specific to Mr. Burke was a crime of moral turpitude, 'falsification of documents or evidence resulting in unsworn falsification, false testimony or evidence tampering'. Mr. Burke was indicted by the Hillsborough County Grand Jury, charged with tampering with witnesses and informants.

Captain Bodanza read the indictment into the record, and then summarized Mr. Burke's law enforcement employment and certification history for council members with each of the staff's exhibits presented.

Mr. Burke had been placed on a 30 day suspension by the Department of Corrections; the suspension has since lapsed.

Captain Bodanza further informed council members that the scope of the hearing was narrow for temporary suspension, 'whether or not a certified officer in New Hampshire has been indicted for felony level charges or a crime which involves moral turpitude and which there is a question of whether or not the safety of the public or the confidence in the criminal justice system has been adversely affected by the behavior alleged in the indictment.'

Attorney Horan presented for his client, beginning with the application of the rule for temporary suspension of certification. He began to speak about some exculpatory evidence and was reminded several times of the narrow scope of the hearing by Chairman Colarusso.

Attorney Horan consulted with his client, and brought up the issue of exculpatory evidence in the case again, and he was again reminded of the scope of the hearing by Chairman Colarusso.

After another consult with his client, Attorney Horan asked for a continuance of the matter until the August 25, 2015 council meeting.

Staff objected to this request, due to the fact that Mr. Burke's agency was allowing him to return to work.

Discussion ensued regarding Mr. Burke's return to work at the Department of Corrections; focusing on whether or not he could participate in tasks other than those of a corrections officer.

The request for continuance was denied by Chairman Colarusso.

Captain Bodanza explained the temporary suspension rule again, specifically the command language, "shall be temporarily suspended unless the safety of the public or the confidence in the criminal justice system would not be adversely affected". He went on to say that this case has been publicized in the media and has already adversely affected the criminal justice system, and reiterated the temporary suspension rule, a certified officer, in this case indicted for a crime defined as moral turpitude.

Attorney Horan consulted with his client and asked again to attempt to present the exculpatory evidence, which was denied by Chairman Colarusso. He then asked the council to rule on whether or not to suspend his client.

Motion by Sheriff Dutile, seconded by Dr. Hurst, to temporarily suspend Gary Burke's certification as a correction's officer until the matter is resolved or until he or his attorney come back before the council. Sheriff Dutile noted that the basis for his motion was the fact that Mr. Burke was indicted on June 18th, the rules state that his certification shall be suspended, as the council has done in prior situations, thereby maintaining consistency; there is no just cause not to suspend. The vote was unanimous in favor of the motion.

It was noted that the suspension was effective immediately, and it will be confirmed in writing by the staff.

Jeffrey Jacques, Pol 402.02 (b) temporary suspension

Mr. Jacques had been sent a notice of hearing by return receipt mail. Captain Bodanza read the rule on temporary suspension into the record:

Pol 404.02 (b) A certification shall be temporarily suspended pending resolution of criminal charges if the officer has been arrested, indicted or bound over either prior to or after certification for a felony or any crime involving moral turpitude or of a crime which tends to bring discredit on the police, corrections, or probation/parole service, unless the safety of the public or the confidence in the criminal justice system would not be adversely affected.

(c) Examples of crimes that involve moral turpitude or of a crime which tends to bring discredit on the police, corrections or probation/parole service shall include but not be limited to:  
(2) Assault;

Captain Bodanza summarized that Jeffrey Jacques had been arrested for domestic violence assault against his wife and criminal mischief by the Rollinsford Police Department, he was given a bail order not to have contact with his wife, shortly thereafter he was charged with stalking.

Jeffrey Jacques's employment and certification history was summarized and included exhibits for the council's consideration in the matter, Jeffrey Jacques was currently employed as a part time officer with the Alton Police Department.

Staff at PSTC has received a letter from the Alton Police Department noting that Mr. Jacques is on administrative leave until further notice.

Captain Bodanza added factual elements to Pol 402.02 (b), Jeffrey Jacques, a certified part time police officer was arrested for crimes of moral turpitude.

Motion by Sheriff Dutile, seconded by Judge Carroll to temporarily suspend Jeffrey Jacques' certification pursuant to Pol 402.02 (b) until the matter is resolved, not finding just cause to do otherwise, the council vote was unanimous in favor of this motion.

## CONSENT CALENDAR

### PT&E Requests

Frederick Douglas, Frankestown Police Department

Will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Full-time Law Package or option to test out of the law package.

Daniel Gaspard, Lebanon Police Department

Will be granted certification upon successful completion of the medical exam, and entrance fitness test.

Carl J. Wagner, Farmington Police Department

Will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Full-time Law Package or option to test out of the law package.

Matthew Giftos, Nashua Police Department

Will be granted certification upon successful completion of the medical exam, and the entrance fitness test.

### Requests for Extensions

Note: Extensions granted until the first council meeting following the fitness testing for the requested Academy, and, if testing is successful, to the first council meeting following the end of the requested Academy.

#### Full Time Police Officer Academy

167th Academy May 4, 2015 to August 21, 2015;

168th Academy August 31, 2015 to December 18, 2015, entrance fitness test August 17, 2015

#### Part Time Police Officer Academy

269th Academy, June 13, 2015 to August 14, 2015, entrance fitness test June 6, 2015.

270th Academy, August 15, 2015 to November 13, 2015; entrance fitness test August 1, 2015.

#### Corrections Officer Academy

100th Academy, June 1, 2015 to July 31, 2015; entrance fitness test May 15, 2015.

101st Academy, September 8, 2015 to November 6, 2015; entrance fitness test August 24, 2015.

Timothy Durham, NH DOC (DOH 3/20/15) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the corrections officer must remain actively enrolled in the 101st Corrections Academy and may only work in the direct presence of a certified Corrections Officer.

Thomas Holbrook, NH DOC (DOH 03/20/15) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the corrections officer must remain actively enrolled in the 101st Corrections Academy and may only work in the direct presence of a certified Corrections Officer.

Patrick Reis, NH DOC (DOH 03/06/15) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the corrections officer must remain actively enrolled in the 101st Corrections Academy and may only work in the direct presence of a certified Corrections Officer.

Christopher Masse, NH DOC (DOH 05/01/15) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the corrections officer must remain actively enrolled in the 101st Corrections Academy and may only work in the direct presence of a certified Corrections Officer.

Steven Ramsey, NH DOC (DOH 03/20/15) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the corrections officer must remain actively enrolled in the 101st Corrections Academy and may only work in the direct presence of a certified Corrections Officer.

Deneje Watts, NH DOC (DOH 10/17/14) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the corrections officer must remain actively enrolled in the 101st Corrections Academy and may only work in the direct presence of a certified Corrections Officer.

George Lamphere, NH DOC (DOH 05/02/14) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the corrections officer must remain actively enrolled in the 101st Corrections Academy and may only work in the direct presence of a certified Corrections Officer.

Louis Yelle, Hinsdale Police Department (DOH: 05/18/15 Not Part-time certified) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the officer must remain actively enrolled in the 168th academy and may continue working only in the direct presence of a certified officer.

Kenneth Gauthier, Brentwood Police Department (DOH: 06/01/15 Not Part-time certified) Will be granted the extension until the first council meeting following the fitness testing for the requested

academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the officer must remain actively enrolled in the 168th academy and may continue working only in the direct presence of a certified officer.

Johnathan Bowler, Allentown Police Department (DOH: 03/23/15 Not Part-time certified) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the officer must remain actively enrolled in the 168th academy and may continue working only in the direct presence of a certified officer.

John Mascaro, Kingston Police Department (DOH: 06/20/15 Part-time certified) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the officer must remain actively enrolled in the 168th academy and may continue working only in the direct presence of a certified officer.

Dimitrios Lazos, Loudon Police Department (DOH: 04/28/15) Will be granted the extension until the first council meeting following the fitness testing for the requested academy, and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the officer must remain actively enrolled in the 269th Part Time Academy and may continue working only in the direct presence of a certified officer.

Request For Medical Extension for Fitness Testing  
Christopher Gustafson          Gilmanton Police Department

(END OF APPROVED CONSENT CALENDAR)

Motion to approve the consent calendar by Judge Gardner, seconded by Chief Hart, the council vote was unanimous in favor of the motion.

#### Other New Business

Medical Concern of Potential Academy Recruit

Motion to enter a nonpublic session for personnel reasons by Attorney General Foster, seconded by Ms. Paula Wall, the roll call vote was unanimous.

At 10:27 a.m. the council began a nonpublic session.

Motion to exit the nonpublic session by Judge Carroll, seconded by Dr. Hurst, the roll call vote was unanimous in favor of the motion.

At 10:34 the Council was back in public session.

Motion to seal by Judge Gardner, seconded by Attorney General Foster, the vote was unanimous in favor of the motion.

The Council did not take any action in the matter.

Non-Consent

Matthew Koziol, New Boston Police Department

The New Boston Police Department filed for a prior training and experience certification for Matthew Koziol, they were waiting to receive his certification from Massachusetts. When the agency applied for the certification at the last academy, since the Massachusetts certification was still pending, the agency deferred it to the upcoming academy; and yesterday, July 27, 2015, the New Boston Police Department provided the Massachusetts certification to PSTC staff.

The non-consent language for the request for extension should read, "council guidelines indicate that extensions granted until the first council meeting after fitness testing if the fitness testing is successful, with the stipulation that the officer pass the test and that he actually remains in the direct presence of a certified officer unless he completes his agency's FTO program.

He is considered a prior training and experience applicant; he has satisfied the requirements of PSTC, however, the law package, driving, firearms and simunitions must be added to certify for the state of New Hampshire.

Motion by Chief Hart, seconded by Sheriff Dutile, to approve the request of the New Boston Police Department for prior training and experience certification for Matthew Koziol. The council's vote was unanimous.

Motion by Sheriff Dutile, seconded by Chief Hart, to grant the extension request for Matthew Koziol, submitted by the New Boston Police Department in order for him to attend the law package of the part time academy. The council's vote was unanimous.

Rule changes

Proposed amendment to POL 402.02(b), the temporary suspension rule.

During the December 16, 2014 Council meeting, Sgt. Timothy King, Director of the New Hampshire Police Association presented a proposed amendment to Pol 402.02(b). It was agreed that the proposal will be discussed at the 2015 strategic planning session. The matter was discussed at the planning session on May 26, 2015. Input by participants gravitated to debate whether the word "shall" limits the Council's options and should it be changed to "may".

Staff is looking for direction from the council to amend this rule.

The current rule, which was used several times today is:

Pol 402.02 Revocation or Suspension.

(b) A certification shall be temporarily suspended pending resolution of criminal charges if the officer has been arrested, indicted or bound over either prior to or after certification for a felony or any crime involving moral turpitude or of a crime which tends to bring discredit on the police, corrections, or probation/parole service, unless the safety of the public or the confidence in the criminal justice system would not be adversely affected.

Director Timothy King of the New Hampshire Police Association proposed the following amendments:

Pol 402.02

(b) A certification shall be temporarily suspended pending resolution of criminal charges if the officer has been arrested, indicted or bound over either prior to or after certification for a felony or any crime involving moral turpitude or of a crime which tends to bring discredit on the police, corrections, or probation/parole service, unless only if the safety of the public or and the confidence in the criminal justice system would not be adversely affected.

During the planning session held on May 26, 2015, a majority of the participants preferred to amend the rule by replacing the word "shall" with "may" as follows:

(b) A certification shall may be temporarily suspended pending resolution of criminal charges if the officer has been arrested, indicted or bound over either prior to or after certification for a felony or any crime involving moral turpitude or of a crime which tends to bring discredit on the police, corrections, or probation/parole service, unless the safety of the public or the confidence in the criminal justice system would not be adversely affected.

Considering both proposals, the staff suggests the following:

(b) A certification shall may be temporarily suspended pending resolution of criminal charges if the officer has been arrested, indicted or bound over either prior to or after certification for a felony or any crime involving moral turpitude or of a crime which tends to bring discredit on the police, corrections, or probation/parole service, unless if the safety of the public or the confidence in the criminal justice system would not be adversely affected.

Discussion ensued amongst the council members as to the clarity, burden, and discretion of the council with the application of this rule. Chairman Colarusso suggested that the attorneys on the council assist PSTC staff to amend the rule, which has currently been dealt with every month.

He went on to speak about other ways to streamline hearings' options, the director's discretion in cases, and meeting with the Chairman prior to council meetings.

Chairman Colarusso asked, and Chief Merrill confirmed that all of the council rules will have to be re-adopted by August of 2016, the temporary suspension rule as well as some of the items on the council's Form D medical, should be amended.

The second rule change for the Council to consider is regarding retired law enforcement officers carrying concealed firearms.

Retired law enforcement officers may be authorized a license to carry concealed weapons throughout the nation, with proper photo id from the agency where they retired and documentation of completion of firearms training from that agency or; photo id, completion of training by a certified firearms instructor and a letter from PSTC stating that the aforementioned items are complete.

The suggestion from the staff is to remove PSTC's involvement in the process. The consensus from the council was in agreement with the staff.

#### Acceptance of Gifts, New Hampshire Cadet Academy

Motion by Dr Hurst, seconded by Chief Hart, to accept the gifts presented to the staff by the New Hampshire Cadet Academy, the gifts are five multi-functional chargers and three back packs. The council vote was unanimous in favor of the motion.

#### Next Meeting Date/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on August 28, 2015, at nine o'clock in the morning.

Upon a motion by Attorney General Foster, seconded by Dr. Hurst, the Council voted unanimously to adjourn the meeting at 10:56 a.m.

Respectfully submitted,

  
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Chief Anthony F. Colarusso, Jr.