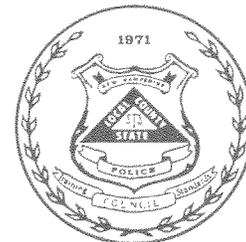




Sheriff Michael L. Prozzo, Jr.  
Chairman

State of New Hampshire  
**POLICE STANDARDS & TRAINING COUNCIL**  
ARTHUR D. KEHAS  
LAW ENFORCEMENT TRAINING FACILITY & CAMPUS  
17 Institute Drive — Concord, N.H. 03301-7413  
603-271-2133 FAX 603-271-1785  
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Donald L. Vittum  
Director

*Approved Minutes*

*March 23, 2010*

*Call to Order*

The 394<sup>th</sup> meeting of the New Hampshire Police Standards and Training Council was called to order at 9:09 a.m. by Chairman Michael L. Prozzo, Jr., Sheriff of Sullivan County, in the John D. Morton conference room at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

**Members Present:** Chairman Michael Prozzo, Sheriff of Sullivan County; Chief James Sullivan, Hampton Police Department; Associate Justice Stephen H. Roberts, Dover District Court; Colonel Frederick H. Booth, New Hampshire State Police; Chief Anthony Colarusso, Dover Police Department; Vice Chancellor Charles Annal, Community College System of New Hampshire; Chief Gregory C. Dodge, Epping Police Department; William L. Wrenn, Jr., Commissioner of the New Hampshire Department of Corrections; Richard Foote, Sheriff of Cheshire County; and, Attorney General Michael Delaney

**NOTE:** Colonel Booth was present from 9:25 a.m. until 11:10 a.m. Justice Roberts and Mr. Annal were present from 9:09 a.m. until 12:05 p.m.

**Members Absent:** Associate Justice Norman E. Champagne, Manchester District Court; Chief Peter Morency, Berlin Police Department

**Staff Present:** Director Donald Vittum, Captain Benjamin Jean, Captain Mark Varney, Chief (ret.) Timothy Merrill, Lieutenant Mark Bodanza, Lieutenant Stephen Kerlee, Captain Robert Stafford, Investigative Paralegal Anne Paquin, and Council Secretary Kathryn Day

**Guests Present:** Assistant Attorney General Nancy Smith; Chief Wade Parsons, Danville Police Department, and Attorney Andrew Volinkski; Officer Matthew Bloom, Roxbury Police Department; Officer Michael Lyczak and Chief Chester Murch, Lee Police Department; Mr. Mark Burke and Mr. Michael McAllister, Director of Field Services for the New Hampshire Department of Corrections.

*Approval of Minutes*

The Council agreed to adopt amendments to the unapproved minutes proposed by Commissioner Wrenn (for clarification on Page 6) and by Sheriff Foote (for a correction on Page 15), following a motion by Chief Dodge, seconded by Sheriff Foote, in a voice vote, 9-0. (NOTE: Colonel Booth was not present for this motion.)

With a motion by Chief Dodge, seconded by Chief Colarusso, the Council voiced unanimous consent for approving the minutes as amended, 9-0.

### ***Director's Report***

There were no questions and the Director had no additional comments to add.

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

#### **Tabled Discussion re: Chief Anthony Randall, Town of Ashland**

At the Council meeting on February 23, 2010, discussion on a request for consideration was tabled to allow the Council time to receive legal advice from Assistant Attorney General Nancy Smith.

Attorney General Delaney moved that the matter of Chief Anthony Randall be removed from the table for further discussion. Following a second by Commissioner Wrenn, the voice vote of the Council was unanimous, 9-0.

*NOTE: Hearing no objection, the Chairman declared that the Council meeting was in recess beginning at 9:16 a.m. to receive advice from legal counsel, Assistant Attorney General Nancy Smith. As provided in RSA 91-A:2, I (b) the Council received advice from legal counsel, and the meeting resumed in public session at 9:45 a.m.*

The Council considered two prior requests made by the Town of Ashland and Chief Anthony Randall: (1) a request for an alternative test for the 1.5 mile run, and (2) a request for an extension of time beyond one year for an elected official to complete the requirements for being granted full-time certification.

Commissioner Wrenn moved:

That the Council allow Chief Anthony Randall to demonstrate his compliance with the exit fitness requirement for being granted full-time certification on the Schwinn Air-Dyne bicycle when he is able to do so, but not later than the next election; further, that the Council deny the request for an extension of time beyond one year from the date of his election.

Sheriff Foot seconded this motion.

Commissioner Wrenn commented further that if the Town of Ashland wanted to continue to employ Chief Randall in the interim period, it would be up to the Town to retain him in an administrative capacity; they have the statutory authority to keep him on and appoint a full-time certified officer to assume the duties of chief until Chief Randall successfully completes the alternative exit fitness test and/or until the date of the next election.

Chairman Prozzo recognized Director Vittum for a question. He asked the Council to consider that Chief Randall had successfully completed the entrance fitness test for the Full-Time Academy. This test is identical to the entrance fitness test for the Part-Time Academy, but there is no exit fitness test for the Part-Time Academy. The Director continued: Assuming that Chief Randall's full-time certification is being held in abeyance until he passes the alternative test, he has met and exceeded the requirements for being granted part-time certification. Essentially, the Town of Ashland could request part-time certification and allow him to work up to 1,300 hours as the Chief of Police. Commissioner Wrenn agreed that this may be a viable option, but it is entirely up to the Town of Ashland to make that decision and then make a formal request.

There being no further discussion, the Council voiced unanimous support and the motion carried, 10-0.

### **Final Adoption of Rule Pol 401.01 Lapse in Service**

Chief (ret.) Timothy Merrill summarized the status of the Rules change proposed by the Council and approved by the Joint Legislative Services Committee on Administrative Rules on February 19, 2010; namely, a new section added to Pol 401.01 Lapse in Service: "*(d) The certification of a police, corrections or probation/parole officer who is subject to an involuntary layoff shall not lapse if the officer is recalled and reinstated by the same agency as a police, corrections or probation/parole officer within a period of three years after the date of involuntary separation.*"

Chief Merrill stated that no comments were received from the public, neither at the public hearing held on December 22, 2009, nor during the period for receiving written comments that concluded on January 4, 2010.

On this day, the Council is requested to move final adoption of the Rules change and submit a cover letter executed by the Chairman to JLCAR indicating the date of the final adoption and certifying that the final Rule is a true copy. Thereafter, the Rules change will be effective beginning 12 midnight on Wednesday, March 24, 2010.

Justice Roberts, with a second by Chief Dodge, moved:

That the Council adopt the Rules change to Pol 401.01 Lapse in Service as approved by JLCAR.

Without exception, the voice vote of the Council was in favor, 10-0.

### ***New Business***

#### **Hearings**

##### **Officer Matthew Bloom, Roxbury Police Department**

Pursuant to Pol 402.02 (a) (10), a hearing was convened regarding Officer Bloom's noncompliance with the annual requirement for four hours of use of force training in 2009 mandated by Pol 404.03.

Officer Bloom appeared and was advised of the protocol for the hearing. At his request, this matter was heard in public session.

Lieutenant Mark Bodanza was sworn and advised the Council that under Pol 402.02 (a) "*the Council shall, unless it has just cause to do otherwise ... order suspension or revocation of the certification of any police or corrections officer for any of the following reasons ... (10) The officer has failed or refused to complete the applicable firearms training requirements of Pol 404.03 or the in-service training requirements of Pol 403.01 until the requirements have been met.*"

Lt. Bodanza offered the following synopsis and Exhibits A through E.

- Exhibit A     Form A submitted by Chief Lefreniere, Roxbury Police Department
- Exhibit B     Part-time certification granted by Police Standards and Training Council
- Exhibit C     Form F submitted by Chief Driscoll, Harrisville Police Department
- Exhibit D     Form F submitted by Roxbury Police Department
- Exhibit E     Documentation received from Keene District Court

### **SYNOPSIS**

Matthew Bloom was hired as a part-time police officer by the Roxbury Police Department and we received a Form A on April 1, 2008. On November 25, 2008, Officer Bloom was granted part-time certification by the Police Standards and Training Council.

On January 29, 2010, Chief LeFreniere of the Roxbury Police Department contacted Police Standards and Training and informed the staff that Officer Bloom was out on an extended leave of absence in 2009. He had just returned from that leave of absence in 2010, and Chief Lefreniere asked and was advised by the staff what requirements he would have to complete in order to get his certification "back in line." Officer Bloom would have to get his firearms certification and his annual four-hour classroom Use of Force certification according to Council Rules.

On January 29, Police Standards and Training received a Form F from the Roxbury Police Department regarding Officer Bloom's firearms qualification. The records reflect that Officer Bloom qualified with his duty weapon on January 28 under the instruction of Chief Driscoll of the Harrisville Police Department.

On February 11, Police Standards and Training received another Form F from Roxbury Police Chief Lefreniere indicating that Officer Bloom had completed his four-hour classroom training with Sergeant Nathan Jette, a firearms instructor with the Winchester Police Department.

On February 12, 2001, one day later, Lieutenant Bodanza received information that Officer Bloom had not qualified and had his weapon on him while at court. In investigating the matter the allegation was that Officer Bloom was wearing a department issued firearm while performing the duties of a Roxbury Police Officer while not having been properly qualified to do so for the 2009 calendar year.

Based on subsequent interviews and admissions from Officer Bloom, Lieutenant Bodanza testified that the Council may consider the following facts:

1. Officer Bloom appeared in Keene District Court on February 8, 2010, the day before he completed his annual firearms classroom training for 2009, wearing a Roxbury Police Department jacket, a full duty belt and firearm, and black dress pants resembling those worn by Roxbury police officers.
2. While at court Officer Bloom represented the Roxbury Police Department and took action to nol pros a traffic summons alleging that Terry Jordan had committed a violation of littering in the town of Roxbury on August 29, 2009.
3. According to Officer Bloom, although Chief Lefrenier of the Roxbury Police Department knew he had court on this date, Chief LeFreniere did not order or authorize Office Bloom to carry a weapon; and, the Chief had previously advised Officer Bloom he could not carry one until the classroom training was completed.
4. Despite knowing he was not supposed to carry his firearm and having been told not to carry his firearm, Officer Bloom did carry his firearm in violation of Rule Pol 404.03 (a) and (e).

**(END SYNOPSIS)**

Lieutenant Bodanza stated that the question before the Council is, given the Rule, Pol 404.03 states that unless just cause is found an officer who has not qualified in the calendar year shall be suspended until he comes into compliance with the Rules. What action, if any, should the Council take on an officer who is not in compliance at the time of a violation, but later achieves compliance prior to a hearing before the Council? He advised that in the past, if an officer failed to qualify in the correct calendar year, the Council has suspended the officer after a hearing, until they came into compliance with Pol 404.03

Hearing no questions from the Council or from Officer Bloom, Chairman Prozzo proceeded to swear in Officer Bloom, who briefly stated the following:

On October 12, 2009, Officer Bloom requested a leave of absence from the Department and traveled to Georgia for a job search. He returned to work at the Roxbury Police Department in January 2010.

Chairman Prozzo inquired regarding the allegation brought forth that Officer Bloom in February 2010 was carrying the department's firearm while performing the duties of a Roxbury police officer while not having been properly qualified to do so for the 2009 calendar year. The Chairman asked if Chief Lafreniere instructed him not to carry a firearm. Officer Bloom at first said, "I believe so, yes, Sir," but then he stated that he was not "100 percent sure" and he acknowledged that he had in fact appeared in court, albeit very briefly, carrying his firearm. The Chairman asked if Chief Lafreniere had taken any disciplinary action as a result, and Officer Bloom said, "No, not specifically."

Commissioner Wrenn inquired why Officer Bloom appeared in uniform at court on February 8, 2010. Officer Bloom clarified that he was dressed in a dress shirt and black pants; Roxbury police officers wear dark blue police pants. He explained that on that date he had scheduled appointments to look at apartment rentals with his girlfriend. He "decided to just throw on a police jacket real quick," he entered the Court briefly, the case was dismissed, and then, he promptly returned to his vehicle.

Chairman Prozzo asked if Officer Bloom was wearing his gun belt on that day and he replied, "I'm not 100 percent sure." Commissioner Wrenn asked Officer Bloom to elaborate on this statement, and he replied, "There's times I go to court with a firearm, and there's times I go without a firearm. If I'm going to be in court for a matter of minutes, most of the time it doesn't make sense for me to have one on."

Chief Sullivan asked Officer Bloom, "But, you don't dispute the information the Council has received from Lt. Bodanza that there is a witness who said you had a gun belt on ... you just don't recall?" Officer Bloom said he did not recall.

Sheriff Foote asked Officer Bloom how long he has been a police officer. Officer Bloom confirmed that he had been a police officer since 2008 and completed the Part-Time Academy as an officer with the Keene Police Department. Sheriff Foote asked what FTO training he had completed after graduation from the Academy. Officer Bloom replied, "Based on the size of the Department, my chief said that my FTO training was the Police Academy; so, after that there wasn't any further training."

Chief Dodge asked if Officer Bloom has discussed the occasion for this hearing with his chief and if any disciplinary action had been taken. Officer Bloom stated that he has had discussion with his chief on this matter and has not been advised what action, if any, the chief is considering – this is still pending.

Hearing no further questions, Chairman Prozzo asked for the Council to state their decision.

Commissioner Wrenn moved:

That the Council suspend the certification of Officer Matthew Bloom for a period of six months, effective immediately.

Chief Dodge seconded the motion.

Sheriff Foote asked the Council to consider that Officer Bloom's certification is part-time and, as such, he is restricted from working more than 1,300 hours each year. He remarked that even with a six-month suspension period imposed early in a year a part-time officer might still have the opportunity to work nearly all of the maximum hours before the end of the year. In that case, does a six-month suspension period have any punitive effect? A reduction in the hours of work permitted in the current year might be more relevant when imposing suspension on part-time officers.

Chairman Prozzo asked Officer Bloom the average number of hours he works in a week. Officer Bloom replied that he primarily works during the summer months and not more than 500 hours per year. Commissioner Wrenn recalled that the Council has not previously imposed a suspension period based on a specific number of work hours; further, in the case of this officer, a six-month suspension beginning March 23, 2010, and ending on September 23, 2010, would effectively restrict him working as a police officer during the time period he is primarily employed (i.e., the summer months). Sheriff Foote agreed that for Officer Bloom this motion would indeed have the desired punitive effect.

Without further discussion, the Council voted unanimously to support the motion, 10-0.

**Officer Thomas Groulx, Litchfield Police Department**

Pursuant to Pol 402.02 (a) (10), a hearing was convened regarding Officer Groulx's noncompliance with the annual requirement for eight hours of in-service training in 2009 mandated by Pol 403.01.

Director Vittum informed the Council members that a Form B has been received from the Litchfield Police Department indicating that Officer Groulx's employment with the Department has been terminated. Therefore, the request for a hearing has been withdrawn.

**NONPUBLIC SESSION: Chief Wade Parsons, Danville Police Department**

Pursuant to Pol 402.02, 406.06 and 404.07, a hearing was convened regarding the submission of false documentation in relation to Chief Parsons' compliance with ongoing physical fitness testing.

Chief Parsons was accompanied by his attorney, Andrew Volinsky. After being advised of the protocol for the hearing, Chief Parson expressed his desire for this matter to be heard in a nonpublic session.

Pursuant to RSA 91-A:3, II (a), Chief Dodge moved for the Council to enter into a nonpublic session to discuss personnel matters. Following a second by Colonel Booth and a unanimous roll call vote, the nonpublic session commenced at 10:11 a.m.

A motion by Chief Dodge, seconded by Colonel Booth, to seal the minutes of the nonpublic session was unanimously approved by the Council.

Chief Dodge further moved that the Council exit the nonpublic session. Colonel Booth seconded the motion. With a unanimous roll call vote of the Council, the nonpublic session concluded at 10:50 a.m.

Commissioner Wrenn said that evidence presented in nonpublic session seems to be that paperwork was submitted in error and that the liability in this case rests upon the fitness testing instructor (Office Berube); but, Commissioner Wrenn said that the Council should make it clear that this is an extremely serious matter, a violation of the Rules, and that the Council does not appreciate that the errors were not corrected in some manner with PST staff. Commissioner Wrenn also stated that he did not feel that it was necessary for the Council to act today on Chief Parsons certification.

Justice Roberts disagreed; he highlighted the fact that the Chief became aware of the errors after a few days and still, more than two years later, has not made an effort to rectify the knowingly false document and that evidence presented has established that Chief Parsons acknowledges that the document as submitted was not in order and that the medical waiver was obtained after the fitness test was conducted. In light of mitigating factors, the Council could find just cause not to immediately suspend Chief Parsons' certification; but, the Council should create an "incentive" to encourage future compliance.

Justice Roberts, with a second by Chief Dodge moved:

That the Council suspend the certification of Chief Parsons for a period of 60 days that will be held in abeyance for a period of two years, providing there is no substantial material violation of Council Rules.

Commissioner Wrenn said that the Council does not normally do that because of the difficulty of tracking matters held in abeyance. Furthermore, he said that imposing any suspension period for another Officer's error that Chief Parsons failed to rectify, "...not, as it is being described here, submitting falsified documents" whether or not it is held in abeyance for two years, was "overkill."

Justice Roberts argued that in February 2007 Chief Parsons knew that the paperwork as submitted was wrong and did nothing for two and a half years. He felt that it was appropriate for some sanction to be imposed.

Chairman Prozzo noted that the Chief acknowledged that he had prepared the paperwork in a rush in order to meet the January 30 deadline. He recommended that the Council should communicate that compliance with ongoing fitness requirements and annual requirements should not be put off for so long that officers must rush through the procedures and risk not completing all requirements accurately.

Sheriff Foote supported the pending motion. He pointed out that the date written by the physician on the medical waiver submitted by Chief Parsons was incorrect and this is a material element of the required documentation.

Hearing no further discussion, Chairman Prozzo called for a voice vote of the Council. The motion to suspend certification carried 9-1, with Commissioner Wrenn opposed.

**NOTE:** Following this hearing, the Council meeting recessed for a short break, from 11:00 a.m. until 11:10 a.m.

**NONPUBLIC SESSION: Mark Burke, formerly of NH Department of Corrections**

Pursuant to Pol 402.02 (a) (4) (c) and Pol 402.02 (a) (12), a hearing was convened for the Council to act on the certification of Mark Burke.

**NOTE:** Colonel Booth was not present for this hearing.

Mr. Burke appeared with his supervisor, Mr. Michael McAllister, Director of Field Services for the New Hampshire Department of Corrections. Chairman Prozzo reviewed the protocol for hearings and Mr. Burke stated that he desired to be heard in a nonpublic session. Commissioner Wrenn requested that the Chairman allow him to recuse himself from this matter.

Pursuant to RSA 91-A:3, II (a), Chief Dodge moved for the Council to enter into a nonpublic session to discuss personnel matters. Following a second by Chief Colarusso and a unanimous roll call vote, the nonpublic session commenced at 11:15 a.m.

A motion by Chief Dodge, seconded by Chief Colarusso, to seal the minutes of the nonpublic session was unanimously approved by the Council.

Chief Dodge further moved that the Council exit the nonpublic session. Chief Colarusso seconded the motion. With a unanimous roll call vote of the Council, the nonpublic session concluded at 11:36 a.m.

In public session, Chairman Prozzo noted that the charges stemming from Mr. Burke's arrest were never adjudicated, but were "placed on file." And, although the arrest occurred more than two years ago and no action was taken because Mr. Burke was terminated, some level of sanction is warranted before going forward and reinstating his certification.

Justice Roberts pointed out that if the Council had acted at the time he was terminated and imposed a customary suspension, Mr. Burke would have already completed that suspension period by now. Justice Roberts also noted that Mr. Burke has acted in good faith to address the problems that led to his arrest and has shown the Department of Corrections that he is eligible to be rehired. He did not feel that a suspension period imposed at this time was warranted and he suggested that a suspension period held in abeyance for a time would be appropriate.

Director Vittum clarified that when Police Standards and Training received the Form B, they were alerted that Mr. Burke had been terminated. His certification automatically lapsed after 30 days without being employed in law enforcement and it became unnecessary for the Council to take action. In the meantime, the Department of Corrections has submitted an amended Form B that indicates that Mr. Burke was suspended without pay one year and 33 days, and a Form A indicating he has been reinstated to his position and requesting that his certification be reinstated based on his prior training and experience. Now that the Department of Corrections has reinstated Mr. Burke, Justice Roberts felt that the question is: Is there just cause to suspend or revoke his certification under Pol 402.02 (a) (12), or does the Council find there is there just cause not to suspend his certification?

Considering the statements of other members, Justice Roberts agreed that some action is warranted, and he put forth the following motion:

That the Council suspend the certification of Mark Burke for a period of 90 days that will be held in abeyance for a period of two years, providing there are no further material violations of Council Rules.

Mr. Annal seconded the motion.

The voice vote of the Council on the pending motion was 2-6; motion failed. Commissioner Wrenn recused/abstained.

Sheriff Foote put forth the following motion:

That the Council suspend the certification of Mark Burke for a period of 60 days effective immediately.

Chief Sullivan seconded the motion. The voice vote of the Council was 6-2, with Justice Roberts and Chief Dodge opposed. Commissioner Wrenn abstained.

## **CONSENT CALENDAR**

The Council considered staff recommendations for items presented on the Consent Calendar. With a motion by Justice Roberts and a second by Chief Colarusso, the Council approved all requests presented on the Consent Calendar, 10-0.

## **APPROVED CONSENT CALENDAR**

### **PT&E Requests**

#### **Probationary Trooper I Ryan M. Short, New Hampshire State Police**

(DOH: 03/26/2010) Trooper Short will be granted full-time certification based on prior training and experience upon completion of the medical exam, successful entrance fitness test, and the Law Package of the Full-Time Police Officer Academy, providing First Aid/CPR certification is current.

### **Requests for Extensions**

#### **Officer Courtney C. Heath, Sunapee Police Department**

(DOH: 08/24/09 **Part-time certified**) The Council granted Officer Heath an extension until fitness testing for and, if successful, through the end of the 152<sup>nd</sup> Full-Time Police Officer Academy (July 30, 2010).

### **Requests for Specialized Training Grant Funds (Beginning Balance - \$16,141.84)**

**Keene Police Department** will be granted a maximum of \$1,000 for Sergeant Steven C. Tenney Jr. to attend the Command Training Series: First Line Supervisor Course at Roger Williams University in Portsmouth, Rhode Island, for two weeks beginning April 12, 2010.

**(END APPROVED CONSENT CALENDAR)**

### **Fitness Testing Show Cause Hearing**

#### **(NONPUBLIC SESSION) Officer John Melia, Richmond Police Department**

Officer Melia appeared and was advised of the hearing protocol. He stated that it was his wish to be heard in a nonpublic session. Sheriff Foote recused himself from this hearing and Colonel Booth was not present.

Pursuant to RSA 91-A:3, II (a), Chief Dodge moved for the Council to enter into a nonpublic session to discuss personnel matters. Following a second by Chief Sullivan and a unanimous roll call vote, the nonpublic session commenced at 11:50 a.m.

A motion by Chief Dodge, seconded by Chief Sullivan, to seal the minutes of the nonpublic session was unanimously approved by the Council.

Chief Dodge further moved that the Council exit the nonpublic session. Chief Colarusso seconded the motion. With a unanimous roll call vote of the Council, the nonpublic session concluded at 12 p.m.

In public session, Chief Sullivan, with a second by Chief Dodge, moved:

That the Council suspend the certification of John Melia until such time as he achieves compliance with requirements for ongoing physical fitness testing.

Commissioner Wrenn said that the Council should go farther and impose an additional sanction for failure to comply with Council Rules and he suggested a one-year suspension. In response, Chief Sullivan withdrew the pending motion and Commissioner Wrenn put forth this motion:

That the Council suspend the certification of John Melia for a period of one year and subsequent to the one-year suspension his certification will remain in suspension until Officer Melia satisfies the requirements for compliance with ongoing physical fitness testing.

Justice Roberts seconded the motion. The voice vote of the Council was unanimous in favor, 8-0, with Sheriff Foote abstaining.

NOTE: At this time (12:05 p.m.), Mr. Annal and Justice Roberts were excused from the meeting.

***Other New Business***

The Council considered staff recommendations on a number of requests excluded from the Consent Calendar:

**Request for Part-Time Certification Based on Prior Training and Experience**

**Officer Daniel T. Duffy, Strafford Police Department**

Chief Dodge moved:

That the Council approve the staff recommendation to grant Officer Duffy part-time certification upon successful completion of the medical exam, the entrance fitness test, and the full program of the Part-Time Police Officer Academy, providing that First Aid/CPR certification is current.

Following a second by Chief Sullivan, the Council passed the motion on a voice vote of 7-0. (Colonel Booth, Justice Roberts, and Mr. Annal absented.)

**Other Requests for Extension to Complete an Academy**

The Council considered the staff recommendation on a request for extension for longer than six months.

**Officer Jason B. Grosky, Salem Police Department**

(DOH: 08/17/09 **Not part-time certified**) requested extension to attend the Part-Time Police Officer Academy for longer than six months through November 19, 2010. Given that Officer Grosky has not completed requirements in accordance with Pol 302.03, staff did not recommend approving this request.

NOTE: Colonel Booth, Justice Roberts, and Mr. Annal were not present for this hearing.

Director Vittum clarified that Officer Grosky is employed as an attorney on a full-time basis and is requesting an extension to attend the Part-Time Police Officer Academy. He has been hired by the Salem Police Department as a part-time police officer and continues to work as a prosecuting attorney on a full-time basis. He asked the Council to consider that Mr. Grosky's time spent in court in his capacity of prosecuting attorney has no bearing on the limitation of hours placed on him as a part-time police officer. Essentially, the Department is asking that the hours Mr. Grosky spends in court as a prosecutor will not be counted toward the "1,300 hours."

The Director asked the Council to clarify whether any time spent in court as a prosecutor will not be counted toward the maximum 1,300 hours of annual part-time police work.

Attorney General Delaney asked if Officer Grosky is “under contract” (as a prosecuting attorney) with the County Attorney’s Office or with the Salem Police Department. The Director stated that he was fairly certain his contract was with the Department and specified that Mr. Grosky was a prosecutor in the Salem District Court.

Director Vittum indicated that Mr. Grosky has not been successful in passing the entrance fitness test for the Part-Time Academy and this has prompted the request for an extension. However, the questions that remain concerning “separating out” hours that are not counted toward “the 1,300” precluded the staff making a recommendation on this request without consulting the Council. The Chairman suggested that this determination might be made at such time that Mr. Grosky has qualified to attend the Academy. Director Vittum suggested that the “1300-hour rule” might not apply until such time as Mr. Grosky is granted part-time certification.

Commissioner Wrenn asked if the Council was “ready to separate the two out for all other part-time officers who are prosecutors.” Director Vittum stated that “the difference is he is a certified attorney; he doesn’t have to be a police officer to prosecute cases.”

The Council members considered what expectations are presently placed on hours worked by part-time officers who also act as prosecutors in particular, and Commissioner Wrenn recalled circumstances in the past where hours were “carved out” from the 1,300-hour limit for part-time officers who functioned in other roles in their municipality (e.g., animal control officer) that did not fall under the Council Rules.

Chairman Prozzo cited Pol 302.12 Limitation of Hours, Part-Time Officers: “(j) *Part-time police shall not report time spent actually attending court as witnesses or waiting for a case to be called.*” The Chairman suggested that the key words, “as a witness or waiting for a case to be called” do not apply to time spent in the role of prosecutor. Chairman Prozzo and Commissioner Wrenn recalled a circumstance where a part-time officer who worked for multiple departments and was fulfilling the role of prosecutor for more than one of these agencies simultaneously requested to exceed 1,300 hours, and the Council decided that this officer was required to adhere to the 1,300-hour limitation.

Commissioner Wrenn stated that the Council not holding Mr. Grosky to the same standard concerning his part-time police officer certification presented fairness issues. Attorney General Delaney reflected that concern and commented that treating Mr. Grosky any differently gave the appearance that part-time officers who also act as prosecutors were not afforded such an accommodation “just because they don’t have a JD and they can’t put on a suit when they are prosecuting in court.”

Director Vittum emphasized that it was important that the Council to advise the Department of their express intent; “We’ve got to let them know what the decision is going to be.” He agreed that such action may not be necessary until Mr. Grosky passes the entrance fitness test.

Chief Dodge moved:

That the Council deny Jason Grosky’s request for an extension for longer than six months, based on his failure to complete the initial requirements for entrance to the Academy, as required by Pol 302.03.

Commissioner Wrenn questioned if the issue was to approved part-time status with unlimited hours. Why deny the request for extension?

Captain Varney explained that three requirements must be met before a request for extension is recommended: “Pol 302.03 (a) *Each newly appointed or sworn police ... officer shall meet the basic firearm safety and familiarization course requirement prescribed in Pol 404.03 prior to carrying a firearm in the course of duty; (b) ... shall be familiarized by the agency in the proper and legal use of handcuffs or any other restraining devices or weapons issued, as provided in*

*Department policy and applicable state laws; and, also, (c) ... police officer(s) who will drive an emergency vehicle on patrol or under circumstances which would require an emergency response shall be familiarized with any of the departmental policies ...”*

Captain Varney stated that Mr. Grosky has not completed those three requirements. The original request received from Salem was a request for an extension through the next Part-Time Academy, and the fundamental reason for the staff not recommending Council approval on the extension request is based on the fact that Mr. Grosky has not met those three basic requirements.

Captain Varney continued, “After that timeframe (when the extension request was submitted), Chief Merrill and I had discussions with them (Salem Police Department)” and it was during these conversations that Salem raised their desire for Mr. Grosky to become part-time certified, participate in details,” while continuing to hold his position as a full-time prosecuting attorney for the Department.

Captain Varney also noted that the form submitted for the extension request indicated Mr. Grosky was hired full-time. The Department clarified later that his position as a police officer with the Department was only part-time and a corrected extension request was submitted. The Form A as submitted requested “part time with unlimited hours.”

Following a second by Sheriff Foote, the Council unanimously supported the motion to deny the extension request, 7-0.

Commissioner Wrenn suggested that the Council respond to the request to approve Officer Grosky’s status as part-time with unlimited hours, as stated in the Form A, and clarify the separation of hours worked as a part-time officer, as the Director requested.

Commissioner Wrenn, with a second by Chief Dodge, brought forth this motion:

MOVED: That the Council deny Jason Grosky’s request for part-time status with unlimited hours; further, the staff should notify Salem Police Department that other than the exceptions stated in Pol 302.12 hours of a part-time police officer in court are counted toward the maximum number of hours allowable (1,300 hour per year).

The motion carried, 7-0.

### **Requests for Specialized Training Funds (Excluded from the Consent Calendar)**

The Council considered a request for funds for training that is scheduled in the next fiscal year and recommended by staff for approval. Chief Dodge, seconded by Chief Sullivan, put forth the following motion:

That **New Hampshire Tactical Officers Association** will be granted a maximum of \$6,000 for one member of each of 12 Special Operations Units to attend a five-day Team Leader course and SWAT Commander School, beginning July 26, 2010, providing that sufficient funds are available in Fiscal Year 2011.

The Council voted 7-0 in favor of the motion (Colonel Booth, Justice Roberts, and Mr. Annal absented).

Director Vittum noted that a request submitted by the Wolfboro Police Department was withdrawn by the Department.

## **Request for Consideration**

### **NONPUBLIC SESSION: Officer Michael Lyczak, Lee Police Department**

Lee Police Department asked the Council to give consideration for Officer Michael Lyczak to become a Certified Firearms Instructor. Officer Michael Lyczak appeared before the Council with Chief Chester Murch. After being advised of the hearing protocol, Officer Lyczak requested that the matter be heard in a nonpublic session.

NOTE: Colonel Booth, Justice Roberts and Mr. Annal departed the meeting before this hearing.

Pursuant to RSA 91-A:3, II (a), Chief Dodge moved for the Council to enter into a nonpublic session to discuss personnel matters. Following a second by Chief Colarusso and a unanimous roll call vote, 7-0, the nonpublic session commenced at 12:06 p.m.

A motion by Chief Dodge, seconded by Chief Colarusso, to seal the minutes of the nonpublic session was unanimously approved by the Council.

Chief Dodge further moved that the Council exit the nonpublic session. Chief Sullivan seconded the motion. With a unanimous roll call vote of the Council, the nonpublic session concluded at 12:15 p.m.

Commissioner Wrenn moved, with a second by Chief Colarusso:

That the Council to lift the suspension of Michael Lyczak's ability to be a Certified Firearms Instructor and confirm his eligibility to apply for and attend the next Police Standards and Training Firearms Instructor course.

The motion was unanimously approved, 7-0.

## ***General***

### **Council Member, Colonel Frederick Booth, Retiring**

Before he departed the meeting at 11:10 a.m., Colonel Booth thanked his fellow Council members for the opportunity to serve with them. The members and staff gave him a hearty round of applause.

### **Requests for Public Citizens to Address the Council**

Director Vittum asked the Council to indicate under what circumstances, if any, they would consent to meet with private citizens to hear their concerns regarding local law enforcement agencies. The Chairman stressed that the ordinary course of business at the Council meetings includes no provision for unscheduled public comment periods. After a thoughtful discussion, the Council reached a consensus that members of the public who wished to address the Council on issues that are germane to Council Rules and/or the Council's law enforcement training programs should contact the Director. If the Director feels it is appropriate to include a particular request, he may place an item on the agenda, providing that time is available to make such accommodations.

## ***Other Business***

### **SWAT/SOU Committee Update – Lieutenant Stephen Kerlee**

Lieutenant Kerlee presented a timeline developed for accomplishing the objectives assigned to the committee: (1) Development of recommended model standards; and, (2) Development of recommended model policies.

The committee is developing recommended standards for New Hampshire SOUs using criteria from the National Tactical Officers Association and the State of California as a guide. These recommended standards will be presented to the Council for review in June 2010.

The committee will also develop and recommend model policies for coordinating specific aspects of high-functioning SOUs: Administration, Personnel and Selection, Training, Operations, and Equipment.

The committee will confer with the Attorney General's Office and incorporate any input into their final recommendations for model policies. These model policies are expected to be ready for the Council to review and give their comments in October. Any changes recommended by the Council will be included in the final presentation expected to occur in November 2010.

***Next Meeting Date/Adjournment***

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday, May 4, 2010, at nine o'clock in the morning, at the Gregg Public Safety Academy in Littleton, New Hampshire.

Upon a motion by Chief Dodge, seconded by Chief Morency, the Council voted unanimously to adjourn the meeting at 1 p.m.

Respectfully submitted,



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Chairman Michael L. Prozzo, Jr.