



Chief Anthony F. Colarusso, 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
TDD Access: Relay NH 1-800-735-2964**



Donald L. Vittum
Director

Approved Minutes

October 27, 2015

The 459th meeting of the New Hampshire Police Standards and Training Council was called to order at 9:15 by Vice Chairman, Commissioner William L. Wrenn, in classroom one at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Vice Chairman, Commissioner William L. Wrenn, New Hampshire Department of Corrections; Chief David Cahill, Sunapee Police Department; Attorney General Joseph Foster; Executive Major David Parenteau, New Hampshire State Police; Dr. Ekaterina Hurst, Department of Health and Human Services; Judge Sawako Gardner, 10th Circuit District Division, Portsmouth; Sheriff David Dubois, Strafford County; Chief William Hart, Londonderry Police Department; Sheriff Douglas Dutile, Grafton County; Ms. Paula Wall, Crisis Center of Central New Hampshire; and Judge James Carroll, 4th Circuit District Division; Laconia.

Members Absent: Chairman, Chief Anthony Colarusso, Jr. Dover Police Department; Chief Enoch Willard, Manchester Police Department, and President Susan Dunton, Community College System of New Hampshire.

Staff Present: Director Donald Vittum, Chief Timothy Merrill, Captain Benjamin Jean, Captain Mark Bodanza

Guests Present: Chief Scott Lester, Antrim Police Department.

Approval of Minutes

Sheriff Dutile moved for the Council to approve the minutes of September 22, 2015. Following a second by Major Parenteau, the voice vote of the Council was unanimous.

New Council Appointment, Chief Enoch Willard, (Chief Willard was attending the IACP conference).

Addendum #3, Chief Scott Lester, Antrim Police Department

Antrim Officer Juan Lluberes, a recruit in the 168th Full Time Academy had been diagnosed with an injury. His doctor ordered that he “cannot perform PT secondary to acute injury –most likely will take greater than two weeks for full recovery”. Chief Lester wished to address the Council to request that Officer Lluberes be allowed to continue in the current academy session, if he misses more than 10 days of the physical training program.

The relevant Council protocol included in the Academy Manual reads as follows;

D4 Dismissal:

- a. A student may be dismissed from the Academy by the Director of the NH Police Standards & Training Council, or his/her designee, for the following reasons:
- 6) Inability, or unwillingness, to fully participate in the physical training program for a period totaling 10 days, over the course of an academy session**

Chief Lester explained that Officer Lluberes had been injured during physical fitness training during the current academy and went on to state that the officer had passed the entrance fitness exam at the *exit criteria*, and had always been athletic prior to his applying to become an Antrim officer.

Chief Lester stated that the town of Antrim is very short staffed, and if Officer Lluberes was not able to recover enough to participate in physical fitness training before the allowed ten days, he would have to come back and start over in the next academy, according to the Council protocol.

Chief Lester stated that the protocol lists "may be dismissed" from the Academy, not "shall be dismissed". He went on to state that the protocol had been in place for many years, and that currently the length of the Academy was 16 weeks, whereas at the time he himself had attended, it was 10 weeks of training. According to his research, the 10 day physical training limit had not been extended, when the length of time of the academy was extended.

Discussion ensued amongst the Council members about the protocol, the projected length of recovery, and the other classes that would be missed because of the injury, not just the physical training. Council members were in agreement that Director Vittum should use his discretion, and make decisions on a case by case basis. In the past, individuals had failed fitness, and by rule, were allowed to return after 30 days to retest; this was a different case due to an injury, and not a failure.

Motion by Sheriff Dutile, seconded by Sheriff Dubois, for Director Vittum to use his own discretion in the matter of Officer Lluberes continuing at the Academy with an injury, that the Director should feel comfortable extending the number of days if he thinks that it is the right thing to do.

Further discussion ensued, and Council members learned that Officer Lluberes was currently on his fifth day of nonparticipation in fitness, with five days remaining. Two more of the points in the request by Chief Lester were the length of the academy and the difficulty of the fitness program; which Director Vittum thought appropriate to bring before the Council. However, by his own admission, those issues were not a consideration in Chief Lester's request.

Commissioner Wrenn stated that if this was the case, that no motion was necessary.

At this point Council members deferred to Director Vittum to handle the situation as he saw fit regarding the 10 day protocol. Chief Lester thanked the Council and exited.

Recruit Separation 101st Corrections' Academy, was acknowledged.

CONSENT CALENDAR

PT&E Requests

Officer Nathan Howard, Somersworth Police Department (DOH: 09/21/15) Will be granted certification upon successful completion of the medical exam, 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

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

169th Academy January 4, 2016 to April 22, 2016, entrance fitness test December 21, 2015

170th Academy May 2, 2016 to August 18, 2016, entrance fitness test April 18, 2016

171st Academy August 29, 2016 to December 16, 2016, entrance fitness test August 15, 2016

Part Time Police Officer Academy

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

271st Academy, February 2, 2016 to May 6, 2016, entrance fitness test January 23, 2016

272nd Academy, August 13, 2016 to November 18, 2016, entrance fitness test July 30, 2016

Corrections Officer Academy

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

David Olmstead Winchester Police Department (DOH: 06/01/14 **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 provide a new Form D Medical or medical clearance form if expired, and must remain actively enrolled in the 169th Academy.

Christopher Dustin Strafford Police Department (DOH: 12/01/14 **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 provide a new Form D Medical or medical clearance form if expired, and must remain actively enrolled in the 169th Academy.

Mark Lynch, Rye Police Department (DOH: 09/15/15 **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 169th academy and may continue working only in the direct presence of a certified officer.

Jason MacLeod Rockingham County Sheriff's Department (DOH: 07/27/15 **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 169th academy.

Michael Laska, Winchester Police Department (DOH: 08/16/15 **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 169th academy and may continue working only in the direct presence of a certified officer.

Michael Chapman, Bartlett Police Department (DOH: 09/04/15 **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 169th academy and may continue working only in the direct presence of a certified officer.

(Extension Part Time)

Matthew Hay, Plaistow Police Department (DOH: 12/01/14) 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 officer must remain actively enrolled in the 271st Part Time Academy and may continue working only in the direct presence of a certified officer.

END OF CONSENT CALENDAR

Addendum #1

Request for Extension

Chris Poppalardo, Allenstown Police Department (DOH: 06/08/15 **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. Unless the officer has successfully completed his agency's FTO Program, then normal supervision.

Motion by Chief Cahill, seconded by Chief Hart to accept the items on the Consent Calendar and to include Addendum 1. The Council vote was unanimous in favor of the motion.

Addendum #2 Narcan Training

The question to Council members was could Narcan training be used as part of the annual 8 hour refresher training requirement for all certified officers in New Hampshire?

The 8 hour training is described as being anything allowed by the individual agency's

chief, but not to include First Aid/CPR, Firearms Training or Defensive Tactics.

Motion by Sheriff Dutile, seconded by Chief Hart, to allow the initial Narcan training to be used as part of the annual 8 hour refresher training requirement for all certified officers in New Hampshire. The vote was unanimous in favor of the motion.

Addendum Item #4 Correspondence

The letter from the Carroll County Chief's of Police Association was acknowledged, the letter is in support of Police Standards and Training Council.

Previous and/or Unfinished Business

Financial Crisis Meeting

The Council members discussed and summarized the Financial Crisis meeting that had been held on October 13, 2015. The meeting was held in the PSTC Tactical Center and was attended by many members of the New Hampshire Chief's of Police Association, as well as a few members of the New Hampshire Legislature.

There were no new ideas for funding PSTC from those people in attendance; however the attendees were very positive and willing to stand behind anything suggested by the Council. They did not want to the academy training to be affected by the crisis in funding.

Sheriff Dutile is head of the PSTC Funding Committee, he has been in contact with legislators to solidify funding, and he provided a document that explained the funding history, from Captain Jean (copy attached). There have been 5.7 million dollars in direct transfers from PSTC's fund over the years, the total impact of the interest payments on the Tactical Center which has in essence been paid for twice, is about 8.3 million in total losses from the fund. It would make a huge difference if there was 8.3 million in the fund, instead of three hundred thousand.

Representative John Tholl has filed legislation which requests:

- *taking the 4% that the Court's get from the Penalty Assessment fund, that would be approximately seven hundred thousand dollars in revenue each year
- *having Penalty Assessment applied to total fines, including suspended fines. If a judge suspends a fine, PSTC loses Penalty Assessment. The Budget Bill that just passed, HB2 stops the waiving of Penalty Assessment by judges, but doesn't stop them from waiving the fine (which would waive Penalty Assessment)
- *paying a fee per hour for diversion programs or for community service, if that was the order.

Council members discussed having additional fees on vehicle registrations in New Hampshire, receiving a percentage of money from insurance companies for reports (similar to the fire academy), perhaps a dollar on every reportable accident or any criminal incident report.

Captain Jean confirmed, when asked, that the academy, with the reductions that have been made should get through fiscal 2016, which is June 30, 2016. Because the revenue is so variable, PSTC could be out in July, or, make it through the biennium.

Director Vittum spoke about RSA 9.19 through 9.22, Budget and Appropriations Revolving Funds, (attached). He emphasized that PSTC watches the budget every single day. If the agency runs out of fund, chiefs around the state will not be able to send their new recruits through the academy, and he will have to distribute 22 layoff notices to PSTC employees. PSTC is in need of seven hundred thousand dollars to get through 2017. PSTC services two hundred and thirty agencies in the state. The financing of PSTC is an ongoing process and has been he became director in 2007, as of late it has been painful to make all of the reductions to keep the agency alive.

Council members discussed the following matters:

- *there is no confidence in financial viability for the next fiscal year for PSTC
- *the long term funding of PSTC
- *this financial crisis must be discussed with legislators
- *suspension of an academy should be considered to save money
- *no further layoffs at PSTC

Further discussion ensued regarding a deadline date to decide whether or not to cancel an academy (in order for agencies to plan ahead when sending recruits). Remarks from Council members included that one academy may be canceled, and then the next academy may have to be canceled as without any money, there is no service. However, it will be necessary to investigate the cost savings when canceling an academy.

The Council discussed making plans to meet with legislators as soon as possible, sending the letter that was proposed during the October 13, 2015 meeting, and that all members should be in agreement on a succinct set of talking points during any meetings. Chief Hart offered to assist staff in drafting a letter.

Speaking on the percentage of Penalty Assessment that is assigned to the Courts, Judge Gardner stated that the Judiciary has it's own budget, and even though there may be some pushing back, members should still attempt to get funding back from the Courts.

Director Vittum again asked that Council members consider the stress on staff from reductions and financial crisis, and Council members confirmed that even though an academy may be canceled; there would be no further layoffs of staff at PSTC.

Further Business

Council members had been provided with a copy of the minutes from the October 13, 2015 meeting for their review.

Motion by Sheriff Dutile, seconded by Judge Gardner to accept the minutes of the Special Financial Crisis meeting held on October 13, 2015. The council vote was unanimous in favor of the motion.

There will be a Corrections Academy Graduation on November 9th and a Part Time Academy Graduation on November 13th, Council members were asked to confirm their attendance to Captain Bodanza.

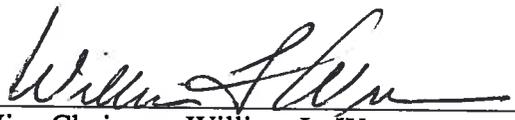
The appeal of Robert Russell was found in favor of PSTC; Council members would be provided a copy of that New Hampshire Supreme Court decision.

The letter on the financial crisis for funding of PSTC would be sent to the governor, to the assistant commissioner, the legislature, to advocacy groups with the help of Paula Wall, and also to the New Hampshire Psychiatric Association.

The next Council meeting will be held on November 17, 2016, at 9:00 a.m.

Upon a motion by Chief Cahill, seconded by Attorney General Foster, the Council voted unanimously to adjourn the meeting at 10:55 a.m.

Respectfully submitted,



Vice Chairman William L. Wrenn

Section 9:19

9:19 Exceeding Appropriations. – No state official, commissioner, trustee, or other person having control of public funds appropriated by the general court shall use any part of such funds for any other purpose than that for which they were appropriated, or expend any money or make any contract or bargain, or in any way bind the state in excess of the amount voted by the legislature.

Source. 1903, 71:1. PL 15:35. RL 22:30.

Section 9:20

9:20 Personal Liability. – Any person who violates the provisions of RSA 9:19 individually or as a member of a board shall be personally liable for the amount of the excess expended, contracted, or bargained above the appropriation.

Source. 1903, 71:2. PL 15:36. RL 22:31.

Section 9:21

9:21 Removal for. – Any commissioner, trustee or agent who shall violate said provisions shall be removed by the governor, and his successor shall be appointed in conformity to the law providing for filling vacancies in such positions.

Source. 1903, 71:3. PL 15:37. RL 22:32.

Section 9:22

9:22 Dissenting Officials Not Liable. – RSA 9:20 and 9:21 shall not apply to members of boards or commissions who do not aid in, sanction, or assent to a violation thereof by other members of such boards or commissions, and who, when such violations come to their knowledge, shall indicate their dissent by entry thereof in the records of the respective board or commission or in the office of the secretary of state.

Source. 1903, 71:4. PL 15:38. RL 22:33.



PSTC TRAINING FUND LOSS CALCULATIONS

PSTC

October 14, 2015

PURPOSE: The purpose of this document is to provide a reasonable breakdown of the impact that the Legislative transfer of funds from the Police Standards and Training Council to the General Fund has had to the financial balance sheet of the agency. This report covers the period of 1990 – current and was compiled using information contained in the annual reports for PSTC from 1986 – 2011 and bond reports from State Treasury.

During the organizational meeting for the “Committee to study funding options for the Police Standards and Training Council and the Department of Safety, Division of Fire Standards and Training and Emergency Medical Services”, it was asked by Senator Lou D’Allesandro what the total amount of money was that had been transferred from the Police Standards and Training Council Training Fund and the impact of the agency having to acquire bonds for funding improvement projects due to the loss of those funds. In researching the annual reports for the agency from 1986 through current along with an aggregate payment report from Treasury on PSTC bonds, we were able to determine the information in the following table.

Fiscal Year	Amount Transferred from Legislature to the	Cumulative Loss from the Fund
1990	(\$3,000,000.00)	(\$3,000,000.00)
1991	(\$1,445,591.60)	(\$4,445,591.60)
2009	(\$2,000,000.00)	(\$6,445,591.60)
2010	(\$800,000.00)	(\$7,245,591.60)
2010	\$1,500,000.00	(\$5,745,591.60)
Bond Interest Payments (1990-2013)	(\$2,585,518.02)	(\$8,331,109.62)
Total Fund Impact for the period 1990 - 2013		(\$8,331,109.62)

From the period of 1990 – current, there have been five legislative actions involving the transfer of money in/out of the Police Standards and Training Council Training Fund. The first action occurred in 1990 when the state was in financial distress during a poor economy. PSTC had just completed construction of a dormitory building and was preparing to build the Tactical Training Center at PSTC with an estimated cost of \$3.2 million dollars. At that time, PSTC was planning to pay for the construction from the Training Fund, which at the end of 1989 had an available balance of \$3,605,714.23. Through Legislative action, \$3,000,000 was transferred from the Training Fund to the General Fund. (Chapter 3, Increasing the Penalty Assessment Rate and Diverting Penalty Assessment

This document was originally prepared and provided September 23, 2011 as part of the Legislative Study to look at funding options for PSTC and the Fire Academy. It has been re-dated to the current date. 1

Funds, 2/20/90). The following quotes the annual report provided by PSTC in 1990 which was under the direction of Earl Sweeney at that time in regards to the potential affect of the action and other issues.

"The staff, Council members, and indeed, the entire law enforcement community were deeply dismayed when the legislature decided to lapse \$3 million from the dedicated Penalty Assessment Fund to the General Fund. Ever since it was established many years ago, the Penalty Assessment Fund, which consisted of \$2 or 10% of each fine levied by the district, municipal and superior courts of the state (an additional 2% for victims assistance and 3% for court system improvements was added two years ago) had been devoted solely to police and corrections training. This enabled us to fund programs without any tax revenues, and provided us with a reliable source of funding into the future.

As others saw the success of funds over the years, we've had to resist almost annual attempts to divert it for other purposes, and were successful every year up until this point. We had consistently reminded the Legislature that the police community was promised years ago that if we could come up with a self-sufficient means of funding their training program and would keep on hand equivalent to one year's budgetary appropriations at any one time, that this source of funds would be left alone and treated as a dedicated fund.

With the lapsing of the \$3 million this year, the Legislature increased the total penalty assessment to 20% and the police training share was increased by 5% to a total of 15% for police training, which should, over time, enable us to rebuild the fund.

Although the Council and police community recognize that the state faced dire fiscal straits this year, our great fear, nevertheless, is that once this fund has been diverted one time, the temptation will be there to do it again and again. It could very soon reach the point where the fund would no longer be adequate to support police training and, in the long run, we would have to request a General Fund subsidy, which would result in another cost to the taxpayers of the state.

The immediate impact of this fund diversion was that the accumulation in the Penalty Assessment Fund which was intended to fund a majority of the cost of building our proposed new tactical training facility, for which \$275,000 in penalty assessment funds had been appropriated and spent for the design is no longer available.

If we are now permitted to go ahead with the building, the costs of this facility will require bonding, and mean that we will pay interest costs on the bonds, which could have been avoided were we able to utilize the surplus funds as we had intended."

The second action occurred in 1991 in which \$1,445,591.60 was transferred by Legislative action to the General Fund (Chapter 4, Lapsing Penalty Assessment Funds, 7/1/91),

This document was originally prepared and provided September 23, 2011 as part of the Legislative Study to look at funding options for PSTC and the Fire Academy. It has been re-dated to the current date. 2

which reduced the Training Fund balance to \$500,317.26 for the close of FY91. The annual report for that time stated:

"The most significant statutory change last year was the further reallocation of nearly \$1,500,000 in Penalty Assessment funds to the General Fund. The Legislature had lapsed \$3,000,000 the previous spring to help offset a projected General Fund shortfall, and had increased our share of the Penalty Assessment from 10% to 15%, to allow the fund to rebuild.

The second lapse will have an effect on our ability to fill many of the provisions of our long-range plans for the future. It had long been Council policy, as a result of an agreement with the Legislature that when the Penalty Assessment fund was first conceptualized, that we would retain in the fund a sum at least equivalent to one year's operating budget, as a "rainy-day" reserve, to cope with emergency situations as they arose, insuring that we would never have to seek money from the General Fund to support our programs, and enable us to cope with adjustments that other agencies make out of the salary and benefit adjustments funds, which are not available to a specially funded agency such as ourselves.

With our fund in the Treasury now depleted, we no longer have the ability to cope with exigent circumstances, and will be especially vulnerable to any further downturn in revenues. Whereas prior to the lapses we could pay cash for our tactical training center and dormitory addition, we will now be bonding the full amount over a 20-year period, and will pay an amount in interest on the bond almost equivalent to the price of the construction itself. These bond payments will also increase our annual budget, and divert operating funds from programming purposes. ... It is necessary that this fund remain intact for its intended purpose in the future, and we hope that it will not be necessary to lapse amounts from this fund in the future, and that when the current surcharges for victim's assistance and court system improvements are sunsetted in a few years, that the fund will revert to its originally intended purpose."

The annual report for 1993 further states:

"Over the past two bienniums, Executive and Legislative action lapsed a total of 4.5 million dollars which the Council had accumulated in the Penalty Assessment Fund, into the General Fund. This money had been intended by the Council to pay for the construction of our Tactical Training Center and Dormitory Addition. Instead, the project was funded by the issuance of bonds to be redeemed over a 20 year period. The first year's interest and principal will run in excess of \$300,000, which must be included in our operating budget. This represents a substantial demand on our declining revenues, and may prevent the achievement of some of our objectives for the future."

The third action occurred in 2009 in which \$2,000,000 was transferred by Legislative action to the General Fund. (HB 30-FN-A-L), which reduced the Training Fund balance to \$956,660.36 for the close of FY09. There were two actions in FY10 where through

This document was originally prepared and provided September 23, 2011 as part of the Legislative Study to look at funding options for PSTC and the Fire Academy. It has been re-dated to the current date. 3

Legislative Action \$1,500,000 was transferred back into the Training Fund to be followed a second action where \$800,000 (HB 1-FN-A) was transferred back out. This resulted in a net loss of \$1,300,000 for that 2 year period, with a total net loss through transfer to the General Fund from 1990 – 2010 of \$5,745,591.60.

Without the ability to use the Training Fund to pay for necessary expansion projects at PSTC, the agency was required to bond those activities. That bonding placed addition strains on the budget and also resulted in the payment of interest charges that would not have occurred had the Training Fund money been used as it was originally intended. According to the Agency Fiscal Year Aggregate Payment report for PSTC for the period of 1990 through 2013 (The Tactical Center bonding is scheduled to end in FY13), PSTC will pay a total of \$2,585,518.02 in interest. This bonding issue continues for PSTC as we recently had two major improvements at PSTC which will require us to bond approximately \$900,000 as there will not be enough funds available in the Training Fund to avoid borrowing. All told, the transfer of money from the Training Fund and the resulting need to bond expansion obligations has resulted in the loss of \$8,331,109.62.

Prepared by Captain Benjamin R. Jean