

MINUTES

April 27, 2004

The 324th meeting of the NH Police Standards and Training Council was called to order at 9:15 a.m. by Vice-Chairman William L. Wrenn, Jr., in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire.

Members present included Chiefs John P. Curran, Meredith Police Department, Donald J. Gross, Nashua Police Department and Michael J. Magnant, Portsmouth Police Department; Sheriff Scott A. Carr, Carroll County Sheriff's Department; Justice Norman E. Champagne, Manchester District Court; Attorney General Peter Heed; and Warden Richard Gerry, designee of the Department of Corrections.

Chairman Michael L. Prozzo, Jr., Colonel Frederick H. Booth, NH State Police, William G. Simonton, Commissioner of the NH Community Technical College System, and Associate Justice Stephen H. Roberts, Dover District Court Chief, were excused due to prior commitments.

Staff present included Director Keith H. Lohmann, Administrative Assistant Jeanette Evans, and Paralegal Cassandra Erickson.

Corrections Officer Maurice Blake appeared before the Council with witnesses, including his spouse Elizabeth, his Corrections Department Unit Manager, Kim Stead, and State Employee Association members Thomas McCabe, Jr., and Stephen J. McCormack.

Chief Shady Blackwell, III, of the Lempster Police Department appeared before the Council with character witnesses including his spouse Melissa, Michael Shklar, Town Attorney, New Hampshire Senator Robert O'Dell, Chief David A. Hoyt of the Newport Police Department, and former Chief of the Lempster Police Department Daniel Morse and his wife Darlene.

Chief Joseph A. Gordon of the Sandown Police Department also appeared before the Council.

Approval of Minutes

The Police Standards & Training Council voted unanimously to accept the minutes of the March 23, 2004 meeting as presented, following a motion by Chief Curran that was seconded by Chief Gross. A printing overlap was noted for correction on the final print.

Director's Report

Despite re-testing for the present Corrections Academy, the enrollment is presently 34, from a beginning enrollment of 35. One recruit withdrew yesterday due to a previous injury.

The Director told members that, in accordance with their request, he contacted the Administrative Office of the Courts, and they are doing an analysis to attempt to determine the potential revenue that would result from the cases being placed on file.

The Director referred to a copy of a letter distributed with the agenda that he wrote to Dr. Chris Kehas regarding the re-naming of the Police Standards & Training facility, offering the alternative proposal of hanging a picture of former Director Arthur Kehas in a prominent place and inviting Dr. Kehas to present the award given in his father's name to the outstanding recruit at every Police Academy graduation.

The Director did not receive a reply from Dr. Kehas, and received an email from another individual this morning advising him that Dr. Kehas has gone directly to the Governor and Council to request the building name change.

The Governor's office called him but the person was in a meeting when the Director returned his call so as yet he does not know the purpose of the call; however, he feels it may be related to this matter. The Director plans to explain the Council's feelings on the matter when they speak.

The Director put a lengthy advertisement in the Union Leader that resulted in receiving 19 applications from prospective Law Enforcement Training Specialists. The Director feels 4 or 5 of the 19 applicants will not qualify. He sent out a questionnaire to the applicants, and 8 questionnaires have been returned. The Director hopes to conduct interviews, with the assistance of several chiefs, within the next few weeks.

Revenues for the month of March look positive; however, the agency is still just barely in the black with \$467. The ultimate expenditures for the year will depend on filling the vacant positions in the agency.

Previous/Unfinished Business**Maurice Blake Request for Reconsideration**

Corrections Officer Blake's certification was suspended for six months by unanimous vote of the Council at the February 24 meeting of the Council. At the March 23 meeting of the Council, the members voted to allow Officer Blake to address the Council for reconsideration of their motion.

CO Blake distributed copies of his training and commendations to the members for their consideration.

The Director told members CO Blake told him he mistakenly thought the Council hearing meeting he missed last month was scheduled for Wednesday rather than Tuesday. He also advised the Director that the SEA representatives present today would not be representing him.

Chief Wrenn, as Vice-Chairman, read CO Blake the Council hearing protocols, recapped his case for the members, and swore him in for testimony after explaining his right to have a public or non-public hearing. CO Blake chose a public hearing.

CO Blake thanked the members for reconsidering his case and took responsibility for his

actions leading to his appearance before the Council. He told members his work record for 18 years was exemplary until this incident, and that he had never received a traffic ticket before.

CO Blake said he graduated in first place from the NH Corrections Academy and received numerous awards through the years, and was one of the first members of the SERT team, served on the honor guard as the operations sergeant and utilized much of his training from the military. He said he helped implement Corrections' mission and value statements, flag, motto, PPD, training and scheduling. He said he also served on a fire security team. CO Blake said he loved his job and asked the Council for a second chance.

When asked by Chief Gross and the Director, CO Blake said he was seeking a lesser length of suspension from the Council than six months.

When asked by the Director about the DWI incident, CO Blake said it was the first time in his life that he "really got into alcohol." In response to a question, he said he does not presently drink and is on medications that preclude him from drinking.

In response to a question from Chief Wrenn, CO Blake said the night he was arrested for DWI he was having family problems and had met a friend at a bar, and not being used to alcohol it affected him strongly—it wasn't something he usually did—and whenever he did go to a bar his wife would be the designated driver.

In response to a question from Judge Champagne, CO Blake said he attended the mandated state classes on alcoholism with no further intervention required.

CO Blake told Judge Champagne the result of the Council's suspension was to be demoted from sergeant to a trainee position within the Department of Corrections. As a trainee, he must work with another officer at all times, which is extremely embarrassing in front of the prisoners.

CO Blake explained to Chief Gross that he lost his license for a year, was suspended with pay, and after the Council suspended his certification for six months he lost his stripe and was demoted to trainee. In response to other questions from Chief Gross, CO Blake said his alcohol reading was .11 and that he was not driving at the time he was cited—he was driving on a snowy night at 45 mph and when he accelerated he lost control and slid into a ditch. When the State Police and wrecker came to extricate the vehicle he was cited for the DWI.

Vice-Chairman Wrenn then swore in CO Blake's wife Elizabeth, who related to the members how they met, how well he had done through the years, and some of the problems he has encountered during the past few years at the Department of Corrections. Mrs. Blake also told members she worked a different shift than CO Blake and lost time herself on the job when she had to take him to work when his license was revoked.

Vice-Chairman Wrenn swore in Corrections Department Unit Manager, Kim Stead, who appeared in support of CO Blake. CO Stead said she supervised CO Blake during 2002 and 2003, and found him to be a good employee who did what needed to be done and that he didn't miss work. She said he was a decent supervisor in the unit who held the inmates and staff accountable.

Following CO Stead's testimony, the Council voted unanimously to take the matter under advisement, following a motion by Judge Champagne that was seconded by Sheriff Carr. Warden Gerry did not deliberate on this matter nor take part in the vote.

New Business

Revocations/Suspensions/Surrenders

Suspension - Chief Shady Blackwell, III, Chief of Lempster Police Department

Vice-Chairman Wrenn explained to the members that Chief Blackwell was present for a hearing due to his conviction of Prohibited Sales in Sullivan County Superior Court. Vice-Chairman Wrenn read him the Council hearing protocols, explained his right to have a public or non-public hearing, and introduced the Council members. Chief Blackwell chose a public hearing.

Vice-Chairman Wrenn then swore Director Lohmann in for testimony, and he informed the members that Chief Blackwell had been convicted of one count of Prohibited Sales in Sullivan County Superior Court, after pleading guilty to having allowed a person under age to consume beer taken from a refrigeration in his residence.

When Chief Gross asked if the Director could advise members what section of the Council's rules were violated by Chief Blackwell's actions, the Director said it was a violation of Council rule Pol 402.02. Chief Blackwell told Chief Gross he had a copy of the rule and was aware of how it impacted on his hearing before the Council.

In response to a question from Warden Gerry regarding the final disposition from Sullivan County Superior Court, the Director said the Court's ruling was to fine Chief Blackwell \$1,000 with \$750 suspended, payment of the penalty assessment, good behavior for the period of one year, and no consumption of alcohol during that period.

In response to a question from Chief Magnant if there was a trial, the Director said Chief Blackwell had pled guilty.

When Attorney General Heed asked if the Director knew if there was an offer of proof made at the hearing and what it was from the State's perspective, the Director said there was an information filed so there was a proffer from the State.

After Chief Blackwell was sworn in by Vice-Chairman Wrenn, he introduced himself to the Council and asked if Senator Robert O'Dell could speak on his behalf because the Senator needed to leave for a meeting at the State House at 10:00 a.m. Attorney General Heed said the meeting was informal and the Senator could go first, and the Vice-Chairman swore Senator O'Dell in for testimony and asked him to state his name, which he did.

Senator O'Dell then explained that he was the State Senator for District 8, which represents Claremont, Newport, and 23 other towns in parts of Cheshire, Sullivan, Hillsborough and Merrimack Counties. He said prior to being a State Senator, he served in the House, and the first piece of legislation he co-sponsored was written by Chief Blackwell dealing with the criminal justice system. He was impressed at that time with Chief Blackwell's knowledge of the law and expertise.

The Senator told members he resides in Lempster and said in the short time Shady Blackwell has been the Chief of the Lempster Police Department he has done a remarkable job in building community spirit and giving the town a sense of pride..

The Senator said he stands with Chief Blackwell as a friend and man he respects for his commitment to law enforcement and a citizen of Lempster thankful he is Lempster's Police Chief. The Senator said he hoped the Council would make a thoughtful decision in this hearing. The Council did not have any questions for the Senator.

Chief Blackwell told members he had an opening statement and read it to the members. In his statement he told members he wanted to present them with all the facts concerning his

conviction of Prohibited Sales. He said when he was informed of Director Lohmann's intention to ask the Council to revoke his certification for two years, he asked for a hearing because he felt the punishment did not fit the infraction and would be unjust. He said he now has been informed that the period of suspension the Director would ask the Council to mete out to him would be significantly less than the two year period and that he was willing to accept the Director's present recommendation, though he felt that he had already been punished for the infraction many times over.

Chief Blackwell then outlined his career history for the members, which he said had been exemplary up until the period of time when he committed the offense he was convicted of. He said he offered to resign from his position as Chief of the Lempster Police Department but the Board of Selectmen declined to accept his resignation and the community wants him to remain as Chief. He said it would have no rehabilitative value to take away his certification for a lengthy period of time, and that he had been held accountable for his actions in court. In closing, he thanked the members for their consideration and said he was prepared to answer any of their questions regarding the matter.

In response to a question from Chief Curran, Chief Blackwell said the minor had beer in his house only once, but had four beers on that one occasion. He said he had gone to a dance at the Opera House and some boys asked to come back to the house to learn to play poker. It was at that time the boy consumed the beer. When asked by Chief Curran how the incident came to light, Chief Blackwell said it was due to an unrelated comment he had made regarding another boy, whose parent brought it to light.

Lempster Town Attorney Shklar was sworn in by Vice-Chairman Wrenn, announced his full name, and said that speaking as the Lempster Town Attorney the town did not condone Chief Blackwell's action, which was against the law and could not be condoned, but in the overall realm of criminal justice the Selectmen of Lempster felt it was a minor infraction and the Chief's forthrightness in taking responsibility for his actions and the punishment he received was more than sufficient.

Attorney Shklar said the Selectmen refused to accept the resignation Chief Blackwell tendered when he advised them of the matter, and they would like Chief Blackwell to continue his work without a suspension. Attorney Shklar said he also wanted the Council to know that Chief Blackwell had a major career setback in that he was in line, as Deputy Chief in Newport, to be the next Chief when the present Chief retired, and that opportunity was lost when he had to leave Newport because of the incident.

Attorney Shklar said that in addition to speaking for the Town as their attorney, he also has known Chief Blackwell for a very long time, having defended hundreds of cases Chief Blackwell prosecuted, and found him to be one of the best police prosecutors he's ever been in court with, because he's one of the few police prosecutors who understands and enjoys the law and is a very formidable opponent.

Attorney Shklar said that although he understands it is hearsay, in speaking with County Attorney Hathaway, who prosecuted Chief Blackwell in this case, Attorney Hathaway did not think Chief Blackwell should lose his certification due to this incident, and one of the reason she charged Chief Blackwell as a violation was so that would not happen.

When Chief Gross asked if Chief Blackwell had lost his job at Newport as a result of the incident, Chief Blackwell explained he did not lose his job as a result of it but that the incident made him decide to leave Newport.

Chief Gross asked Attorney Shklar what the Town's position would be if Chief Blackwell lost his certification for a period of time. Attorney Shklar said that although he could not speak for something that had not happened yet, he felt the Town would allow Chief Blackwell to find officers to cover a leave of absence, but it would depend on the length of time.

In response to a question regarding any treatment he sought for the drinking problem he had, Chief Blackwell said he has not had a drink for six months and is on medication. He said he did not have any formal alcohol treatment because the doctor did not feel he was an alcoholic, just that when he did drink it was to extreme excess.

Newport Police Chief David Hoyt next spoke on behalf of Chief Blackwell, after being sworn in by the Vice-Chairman and telling the Council his full name. Chief Hoyt said he agreed 100% with what had been said by Attorney Shklar at the hearing except to correct one inaccuracy—that the investigation was conducted by Chief Cahill—not by the Sullivan County Sheriff's Office. He said the investigation started as an administrative-type investigation, which was why charges would not have been filed had Chief Blackwell remained in Newport Police Department.

Chief Hoyt said he, too, thought Chief Blackwell was an outstanding prosecutor and officer who implemented many new programs while at Newport. He said Chief Blackwell made a mistake but didn't try to cover it up, and people were impressed he stood up and took the consequences. He asked the Council not to take any further action because Chief Blackwell has been punished in many ways, through the court, administratively, and through the police department.

Chief Hoyt said it was his understanding after speaking with County Attorney Hathaway that Chief Blackwell would not face any administrative action with the Council. He said he was shocked when he heard there would be a hearing, although he understood that procedure had to be followed, but he asked the Council not to take any action that hasn't been taken already.

Chief Gross asked Chief Hoyt what the parents of the minor think of the incident. Chief Hoyt said they were impressed with how it was handled and feel that justice has been served in more ways than one, and said they speak positively whenever they speak to him about Chief Blackwell and their son. Chief Gross felt it was important that everyone present at the hearing be aware that the Council makes decisions independent of what a prosecutor or a county attorney or anybody else may believe, and he didn't believe there was any discussion with the Council prior to this hearing from any county attorney with regard to where the Council may or may not be. He said it was important to keep that in mind.

When Attorney General Heed asked Chief Hoyt if his understanding was correct that the juvenile was not injured in any way or get involved in any other illegal activity as a result of imbibing the beers, Chief Hoyt responded that was correct.

When Chief Magnant asked Chief Hoyt if there were any other juveniles present at the time the minor drank the alcohol, Chief Hoyt said the minor's cousin was present and he did not consume any alcohol. Chief Hoyt responded affirmatively when asked by Chief Magnant if Chief Blackwell was drinking at the time of the incident, and Chief Blackwell also said he was.

When asked by Chief Wrenn if he was shocked by the behavior of Chief Blackwell when it came to light, Chief Hoyt said he was very shocked.

Following testimony, Director Lohmann said it was remarkable that Chief Blackwell was very straightforward in admitting his mistake, but two Council rules were violated and some type of sanction was in order, if only for law enforcement in general, to send a message of what

is acceptable and unacceptable behavior for police officers. He said he told Chief Blackwell he would, and now did, recommend a 30-day suspension to the Council.

Judge Champagne made a motion seconded by Attorney General Heed to accept the staff's recommendation to impose a 30-day suspension of certification on Chief Blackwell.

Chief Gross said he agreed with the recommendation and commended Chief Blackwell for being up front with this all the way through, and said it definitely goes to his character and also said his career has been hurt but the Council is there to set standards across the state and the last phase of his "taking it on the chin," so to speak, is the example that would be set for his peers and people who work in law enforcement across the state.

Chief Magnant said he wanted to go on record that he would not support the recommendation and that he was somewhat surprised that the Director would make that kind of a recommendation. He said he thinks it is wrong—what occurred was wrong. He appreciated the fact that Chief Blackwell owned up to it, but the fact of the matter was it should not have happened because he was the Deputy Chief of Police, he should not have been drinking with juveniles, he should not have been allowing juveniles to drink, and he thinks 30 days suspension sends the wrong message to our young police officers out there.

Following discussion of the motion, it carried on a vote of 5 - 3, with Chief Curran, Chief Magnant and Chief Wrenn opposed.

Suspension - Richard N. Ell, Manchester Police Department

The Director told members that Officer Ell was charged with DWI by State Police and ultimately convicted of Reckless Operation in the Manchester District Court, and is represented by Attorney Eric Wilson of Nashua.

The Director said Council rule Pol 205.04 provides for an informal settlement of cases where the person does not necessarily appear before the Council, and the person can negotiate with the Director, and if an agreement is reached the Director can present it to the Council for their consideration and/or approval.

Officer Ell through Attorney Wilson is seeking an informal settlement wherein Officer Ell will be suspended by the Council for 7 months for his Reckless Operation

conviction, retroactive to January 2004, to culminate August 1, 2004 when his suspension from the Manchester Police Department will end.

The Director said that if the Council accepted the recommendation presented, he would draw up an agreement to be signed by both parties and ratified by the Council at the next meeting of the Council.

The Director said that when Attorney Wilson asked to follow this procedure, he advised the attorney the Council had never followed this procedure before, but he would bring it before them.

Chief Wrenn said that since the Council has been suspending for 90 days for DWI this settlement is agreeable.

In response to a question from Warden Gerry, the Director said there were no accidents involved with Officer Ell's DWI arrest.

Chief Gross was concerned with the 7-month suspension and thought they should stick

with the Council's usual 90-day suspension. The Director said he had researched how the Council had ruled on past police officer DWI cases at Attorney Wilson's request, and he found no consistency with DWI and Reckless Operation in the cases of police officers because there have only been a few—unlike corrections officers—perhaps 6 or 7 cases since 1990. Chief Wrenn noted the Council has tried to equalize the suspensions in the past year on DWIs.

A motion by Chief Magnant that was seconded by Sheriff Carr, to accept the staff's recommendation was withdrawn, and the Director was instructed to proceed with drawing up a formal document that specifies the terms of the settlement agreed to between Attorney Wilson and Director Lohmann, have the parties sign the document, and bring it before the Council for approval per Pol 205.04. Judge Champagne did not deliberate or vote on this item.

Revocation - Robert M. Snow, Jr., formerly of Bartlett Police Department

After the Director was sworn in by Vice-Chairman Wrenn, he told members that Robert Snow was convicted of Theft by Unauthorized Taking (RSA 637:3) and Theft by Deception (RSA 637:4-2,a) for actions taken while he was serving as the police chief in Bartlett, New Hampshire. He filed for an ordinary retirement with the town on 8/31/01 and was sent a certified letter by Police Standards & Training to his last known address, notifying him of the hearing. The letter was returned because Mr. Snow is in the NH State Prison. The Director distributed copies of both convictions as State's exhibits - Carroll County Superior Court #01S378 and 01S379.

The Director said the staff recommended revocation of certification; however, since the certified notification of the hearing was returned, if Mr. Snow should request a hearing at a later date, staff recommended the request be granted and the time limit waived to ensure due process.

Chief Curran made a motion that was seconded by Judge Champagne, to revoke the certification of Robert Snow. The motion carried unanimously. Attorney General Heed and Sheriff Carr abstained from both deliberation and vote on this item.

Prior Training & Experience Requests

Full-Time

Chief Joseph A. Gordon, Sandown Police Department

Chief Gordon told members he attended the 107th NH Police Academy, and outlined his career history up until the present time. He said he left and returned to law enforcement employment within the period necessary to have his certification reinstated without lapsing, when he was hired part-time in 2002 by Fremont Police Department, and was reinstated with unlimited hours by then-Director Earl Sweeney at that time. Chief Gordon said he has continued to receive ongoing training and would like to take some management training rather than attend the full-time academy NH Law Package.

In response to a question from the Director, Chief Gordon said there are 5 full-time and 7 part-time officers employed at the Sandown Police Department.

The Director explained to members that Chief Gordon was granted part-time certification with unlimited hours when he was employed part-time at Fremont Police Department. When he was hired full-time by Brentwood, that department failed to submit a request for full-time certification based on prior full-time training, erroneously thinking his unlimited hours certification at Fremont was tantamount to full-time certification, whereas the certification status is based on the position held—full-time employment or part-time employment. After Brentwood Police Department submitted Forms “A” and “E” requesting full-time certification based on prior training and experience, that department placed him on part-time status.

Chief Gordon resigned from Brentwood Police Department and went to full-time status with the Sandown Police Department—hence the current prior training and experience request from them.

The Director told members that based on the points on the matrix used in deciding these requests, the staff recommendation is to grant full-time certification upon successful completion of medical and physical agility testing, the NH Law Package at the NH Police Academy, and First Aid/CPR recertification if it has lapsed.

When asked by Judge Champagne if he supported the staff recommendation, Chief Gordon said he would rather not have to attend the full law package because his time could be better spent in management training or finishing his degree.

In response to a question from Warden Gerry, the Director said the part-time school law package is 75 hours and the full-time law package is 100 hours.

Warden Gerry, seconded by Judge Champagne, made a motion to accept the staff recommendation.

Considerable discussion ensued regarding full-time certification and part-time certification with unlimited hours because Chief Gordon was continuously employed in one of those categories after leaving initial full-time employment.

The Director explained that certification is based on an officer’s employment as either a full-time officer or a part-time officer with a department, so full-time certification could lapse when the officer went beyond three years of being employed full-time, although working as a part-time officer.

Chief Gordon left full-time employment in July of 1999 and didn’t work full-time again

until September of 2003, thus the matrix warranted what the staff recommended in order for him to be certified full-time now, based on prior training and experience.

Chief Wrenn felt it was overkill to have Chief Gordon attend the full law package when he technically did not have a break in service since being granted unlimited hours based on his full-time previous academy attendance.

In response to Sheriff Carr's question of how much annual in-service training he usually takes, Chief Gordon said he usually takes more than the required amount and had about 24 hours in 2003, and 8 hours in 2002, in addition to firearms training.

Following the discussion the Council voted 5 - 3, to follow staff recommendation, with Chiefs Wrenn, Curran, and Gross opposed.

Diana L. Scott, Bow Police Department

The Director said this request was somewhat different from Chief Gordon's. Officer Scott previously worked full-time at Rochester Police Department and then went to Bow Police Department on a part-time basis.

At the July 23, 2002 meeting the Council granted Officer Scott part-time certification with unlimited hours upon successful completion of the entire Part-Time Officers' School, medical and p.t. tests, First Aid/CPR, Officer Survival and Driving at the full-time Police academy. Officer Scott completed all those requirements and the department is now requesting she be certified full-time.

The Director said that although it is less than two years since she completed the Part-Time Officers' School, if the matrix was strictly adhered to Officer Scott would have to complete the law package again, which the Director felt didn't make any sense and so he recommended Officer Survival and Driving at the full-time police academy (which she took less than 3 years ago), Simunitions, OC Refresher, First Aid/CPR (if not current) and a medical and p.t. test.

The Director asked the members for their guidance as to whether or not they want to follow past procedures or, in cases such as Chief Gordon, if the Council wants to consider the continuous employment in law enforcement when handling prior training and experience requests, because it would make a difference in decisions such as this one and Chief Gordon's.

Chief Wrenn said the Council had made their opinion known when Chief Gordon's request was considered, but asked the Council for input.

In response to a question from Judge Champagne regarding the difference between Chief Gordon's request and Bow Police Department's request for Officer Scott, the Director said he was somewhat skeptical when a department asks for unlimited hours for a part-time officer and then soon after requests full-time certification, relying on the previous Council decision, thereby skirting some of the requirements for full-time certification. He said the Council was strict in their decision to grant part-time certification with unlimited hours to Officer Scott—they made her take several classes at a full-time police academy.

The Director said he views this request as a policy issue—Officer Scott left full-time employment with Rochester Police Department 11/28/97, and was not back in law enforcement again until 6/7/02—a break in service of 4½ years. If the Bow Police Department had asked for full-time certification in June of 2002, Officer Scott would have had to go back to the law package at a full-time police academy.

When Chief Curran asked if Officer Scott would have had to attend the full NH Police

Academy after 5 years, the Director said the matrix requires re-attendance at a police academy after about 6½ years.

Judge Champagne saw the difference between the requests for Chief Gordon and Officer Scott being that Chief Gordon took the 100-hour NH Law Package at a full-time police academy and Officer Scott took the 75-hour NH Law Package at a part-time school. The Director agreed, and said Officer Scott also took some extra classes as well, such as Driving, which is 40 hours, so she ended up with about 140 hours of training to get the unlimited hours part-time certification.

The Director said that by comparison, Chief Gordon fell within the matrix within 3 days of the 3 years, hence the previous Director's decision at that time. In this case the lapse in service was 5 years when the request was received.

Chief Wrenn felt more consistency is needed in prior training and experience decisions and said these two requests were a good example. He said that if a department requests certification with unlimited hours for a part-time officer, regardless of the length of time of their break in service, the Council needs to decide whether that individual should attend a full-time law package for the unlimited hours or a part-time law package, because departments are submitting requests for reinstatement of full-time certification on their part-time officers they promote to full-time.

Chief Wrenn pointed out that if the Council had required Chief Gordon to attend a full-time law package when he was granted part-time certification with unlimited hours, the Council most likely wouldn't have required him to do so now. He said the Council needs to decide if the part-time law package equates to the full-time law package, and should they make that a formal requirement when deciding to grant part-time certification with unlimited hours when there has been a break in service.

The Director said that although it wasn't consistent, in the past when departments requested part-time certification with unlimited hours for an officer, the previous Director typically would require the officer to attend the full-time academy law package, and the Director felt that would be appropriate to require in the future in these cases. Judge Champagne said that would make sense and Chief Curran agreed.

Following a motion by Judge Champagne that was seconded by Chief Curran, the Council unanimously voted to grant full-time certification to Officer Scott upon her successful completion of the NH Law Package at a full-time academy, Officer Survival, Simunitions, OC Refresher, First Aid/CPR (if not current) and medical and physical agility testing.

Extension Requests

Following a motion by Chief Curran that was seconded by Chief Magnant, the Council granted extensions as requested to full-time Officers Steven D. Beal of the Lee Police Department, Erik F. DiFilippe of the Bristol Police Department, Joseph Fussell of the Brentwood Police Department, Andrew M. Wood of the Rindge Police Department, Daniel W. Fowler, III of the Littleton Police Department, and Amber M. Parkhurst of the Waterville Police Department.

Training Grants

A training grant in the amount of \$1,003.34 was unanimously approved to Durham Police

Department following a motion by Judge Champagne that was seconded by Chief Curran. An item for \$150.00 listed on the grant request that bore no explanation was deducted from the original request of \$1,153.34.

A motion by Chief Curran to approve \$420 for two Brookline officers to attend media relations training failed to receive a second. A motion and second by Chief Curran and Sheriff Carr respectively, to advise the Brookline Police Department this type of training would be offered in the next training calendar, was withdrawn following further discussion.

Following a motion by Chief Magnant that was seconded by Sheriff Carr, the Council unanimously approved a grant for \$210 for the Chief of Brookline to attend the training now, and have the Director advise the Chief he could send the other officer to the training when it is scheduled by Police Standards & Training next year.

The members discussed a grant request for \$1,000 from Jaffrey Police Department for funds for an officer to attend a conference in Nevada that offered an Accident Reconstruction and Traffic Crash Investigation course, because historically the Council does not grant funds to attend conferences unless the major component of the conference is training.

Chief Curran made a motion to approve the grant contingent upon the Director confirming with the Chief of Jaffrey that the training meets the Council's requirements. The motion carried unanimously following a second by Warden Gerry.

Chief Wrenn expressed an interest in receiving a copy of the course materials, and Chief Magnant said he would be interested in having the officer give a presentation at his department, with officers from other departments welcome to attend.

The Director said he would contact Jaffrey as directed and obtain a copy of the course outline and give the members a copy.

Other New Business

Animal Control Officers

The Director told members he has had several requests from departments requesting a ruling on animal control officers regarding what, if any, training they should have. The previous Director had a policy where he would send ACOs to a part-time school and they would get a certificate of attendance and then be able to enforce animal control laws; however, the Director could not find legal documentation in the agency regarding this.

Rochester Police Department submitted a request regarding this training, that the Director forwarded to the Attorney General's Office for a legal opinion, which was rendered by our legal counsel at that agency, Nancy Smith. Copies of her Opinion were distributed to the Council. The Attorney General noted Ms. Smith had discussed the matter with him.

The Director said the consensus of the Attorney General's Office is that if ACOs are going to enforce violation-level offenses only, then they do not need to come to any Police Standards & Training Council training. However, if the position description states that they are going to enforce all animal control laws for the department, then because some animal control laws are misdemeanors they would have to be certified as part-time officers.

The Director felt that because this delineation of animal control duties represents such a significant change in previous policy, he wanted the Council apprised prior to discussing this with any other departments. He said he currently has an officer with the Portsmouth Police

Department attending a NH Law Package, and has a request from the Rochester Police Department and a foreseeable problem with the Rindge Police Department who has a constable who is also an ACO wearing a badge and driving a police cruiser, etc. The Director said the Attorney General's Office has asked him, and he has agreed, to try to mediate that problem because a town resident wants the constable arrested for impersonating an officer. The Director said he is in the process of mediating the problem.

The Director said the only area of Ms. Smith's legal opinion that he disagreed with was her statement that if the ACO was going to work full-time s/he would have to be full-time certified, whereas our rules specifically state that if an ACO meets certain criteria their hours do not count as a part-time officer's.

In response to a question from Chief Curran regarding the rule specifying what the criteria is, the Director said the rule describes kind of uniforms they can wear, vehicle they can drive, etc. Regarding the hours limitation, the Director told members Pol 302.12 states that "part-time police officers while serving as animal control officers shall count their hours toward the 1300-hour requirement unless the officer's uniform or insignia shall be differentiated from that of a police officer with the same department; the officer shall not be armed with a firearm other than a weapon necessary for the destruction of an animal; and the officer shall not drive a vehicle marked or identified as other than an animal control vehicle."

The Director feels animal control officers can still be part-time certified as long as they fulfill those criteria, but for some departments the new policy could create a problem, and he is going to have to ask the Rochester Police Department to re-write their position description on animal control officers or send them to the part-time officers' school.

Chief Wrenn said his department has never had an issue with animal control—his animal control officer is a civilian that wears a different uniform and enforces all the violations and administrative fines, and if he runs into a state law issue he calls a uniformed officer for assistance.

Chief Curran said a regular duty officer is assigned to animal control at his department.

The Director told members he would be sending a memo out to law enforcement agencies on the Attorney General's Opinion, in addition to contacting the Rochester Police Department with the Opinion.

Paul Tower, Deerfield Police Department

The Director told members Officer Tower has been charged with Felony Criminal Trespassing, 631:4 on 11/21/03: Did purposely place Nicole Tower in fear of imminent bodily injury while Nicole was driving a 1997 Volvo down Raymond Road by stating to her, "How does it feel to die today" and then grabbing the steering wheel while telling her, 'I could just veer the car.

The Director said Officer Tower is also charged with felony Tampering with a Witness, 641:5: The defendant, believing an investigation was pending regarding an incident with his wife, Tower called her and knowingly attempted to induce her to withhold information and not call the police by advising her he would have her arrested, and stating to her when she had done nothing wrong, "They're not going to know that. I'm going to tell them that you stole my phone," causing Nicole Tower not to contact police.

The Deerfield Police Department has placed Tower on administrative leave with pay

pending the outcome of the case, and he's been on administrative leave since 1/10/04. The department would like the Council to suspend Tower's certification under Pol 402.02(b) because they want to then put him in unpaid status.

The Director read 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 the safety of the public or the confidence in the criminal justice system would not be adversely affected."

The Director said that historically the Council has not suspended an officer's certification unless they had been arrested and were still working, and he did not recommend doing so in this instance; however, he said Deerfield could activate his duty status and force the Council to suspend him.

Chief Curran noted the officer can go to another community and get certification, plus he's a danger—he has intimidated a witness. Judge Champagne said if he went to another department for employment the Council would suspend his certification so why not just do it, and the Director said if a Form A was received on him he would take immediate action to suspend him, by telephone poll to the members if necessary, because he is obviously dangerous.

When the Director confirmed to Judge Champagne the department was probably using this suspension request as an excuse to cut his pay, the Judge said we should not deviate from usual procedure.

Judge Champagne made a motion to advise the Deerfield Police Department that The Council sees no reason at this time to deviate from the Police Standards & Training Council rules governing their procedure in these matters. The motion was seconded by Chief Curran and carried unanimously.

Non-Public Session to Discuss Personnel Matters

Following a motion by Chief Curran that was seconded by Chief Gross, the Council voted unanimously on a roll-call vote, to enter into a non-public session at 12:21 p.m., for the purpose of discussing personnel matters.

Following the discussion, on a motion by Chief Curran that was seconded by Sheriff Carr, the Council unanimously voted to seal the minutes of the non-public session.

Chief Curran then made a motion that carried unanimously following a second by Judge Champagne and a roll-call vote, to exit the non-public session at 12:44 p.m.

General Discussion

At the conclusion of the Director's Report the issue of re-naming the building in honor of former Director Arthur Kehas was raised by several members. Chief Magnant asked the Director if a letter should be sent to the Governor and Council on the Council's behalf, explaining their position on the matter, but the Director felt he should ascertain the hearsay that Dr. Kehas directly approached the Governor and Council was true.

Chief Wrenn said a letter from the Council to the Governor and Council explaining their position was probably in order.

In response to a question from the Director, the Council said he should explain the Council's position on the matter if he receives a call from the Governor regarding it.

Adjournment

The next meeting of the Council will be at 9:00 a.m. on Tuesday, May 25, 2004. Following a motion by Attorney General Heed that was seconded by Chief Curran, the Council adjourned the meeting by unanimous vote, at 12:45 p.m.

Chairman Michael L. Prozzo, Jr.