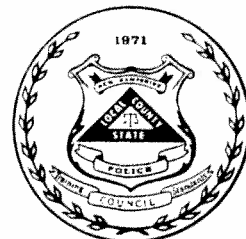




Sheriff Michael L. Prozzo, Jr.  
Chairman

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Keith H. Lohmann  
Director

## ***MINUTES***

*May 25, 2004*

The 325<sup>th</sup> meeting of the NH Police Standards and Training Council was called to order at 9:03 a.m. by Chairman Michael L. Prozzo, Jr., in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire.

Members present included Chiefs William Wrenn, Hampton Police Department, John P. Curran, Meredith 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; Associate Justice Stephen H. Roberts, Dover District Court, Warden Richard Gerry, designee of the Department of Corrections; Captain Christopher Colitti, designee of Colonel Frederick H. Booth, NH State Police, and Deputy Commissioner Charles Annal, designee of William G. Simonton, Commissioner of the NH Community Technical College System.

Recently retired Chief Donald J. Gross of the Nashua Police Department attended the meeting to deliberate and vote on a matter taken under advisement at the April meeting of the Council before he retired; he remained as a guest for the remainder of the meeting except for the non-public personnel portion.

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

### ***Approval of Minutes***

The Police Standards & Training Council voted unanimously to accept the minutes of the April 27, 2004 meeting as presented, following a motion by Attorney General Heed that was seconded by Deputy Commissioner Annal.

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

The Director dismissed a recruit from the Academy last week because a significant quantity of prescription drugs was found during a room inspection that he had not reported having in his possession to the staff, in violation of our rules. The drugs included Flexeril™ and prescription strength Motrin™. During the investigation it was brought to light the recruit had given some of the Motrin™ to another recruit, who said he didn't realize it was prescription strength. Since this was a violation of RSA 318.42, the Director spoke with the Attorney General's Office and asked the State Police to conduct a criminal investigation. State Police sent three investigators to this agency, who questioned all the recruits. The Director does not have a report on the

matter at this time, and will not take any administrative action on the matter until the investigation is completed.

Two grants were approved by the Governor and Council this month—one was for the video conferencing sites in Keene and Pease International Tradeport for \$222,000. The homeland defense training \$250,000 grant was also approved, but a \$34,000 homeland equipment grant and \$500,000 grant for the recruit wireless network were pulled without explanation. The Director has asked the Governor and Peter Yao to put them back on the agenda for a future Governor and Council meeting.

Former Director Arthur Kehas's son Chris approached Governor Benson directly regarding his request to rename the Police Standards & Training facility after his deceased father. Kevin Smith, who has since left the Governor's office, contacted the Director regarding the request, and the Director told him the Council's views on the matter. The Director told Mr. Smith he would bring the request before the Council again, and explained to him that a portion of the building was already named for Arthur Kehas and an award is bestowed in his honor at all graduations. The Director noted Dr. Kehas has never approached him directly regarding this request—he has approached Senator D'Allesandro, the Executive Council, the Governor, but never spoken to the Director or any Council members. Chief Wrenn said we should write a letter to Governor Benson explaining the same issues and facts previously expressed to Dr. Kehas regarding the Council's opposition to naming the building after Arthur Kehas.

The retirement party for former Chairman of the Council W. H. D. Townley-Tilson is set for Wednesday, June 16 at the Red Blazer in Concord, and the Director asked that anyone who did not receive their invitation let him know so he can get a copy to them.

The Director said he contacted the Attorney General's Office regarding "Garrity" as it related to two Exeter personnel issues discussed in non-public session last month— whether the information would be admissible in an administrative action by the Council. The Attorney General's Office has now informed the Director that "Garrity" would not be an issue, so the notification letters have been sent out, and the Director plans to hear one of the cases at the June meeting unless a continuance is requested.

The model city van approved and sent out to bid elicited only one bid from Ohio. Administrative Services advised the Director they reviewed and rejected it, so the item will have to go back out to bid. The Director said the delay should not risk the funds because they have been encumbered, and he will let the Council know of any changes.

The Director spoke to Governor Benson about reappointing members of the Council whose terms have expired, but has had no reply to date. He noted the Council now has one vacancy due to the retirement of Nashua Chief Gross, and four members who need to be reappointed.

### ***Previous/Unfinished Business***

#### **Maurice Blake Request for Reconsideration**

Department of 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, and at the April 27 meeting CO Blake presented documents and witnesses in support of his request for the Council to reconsider their decision. Following testimony, the Council voted to take the matter under advisement.

Since Chief Gross sat on the February, March and April considerations regarding this hearing, he agreed to attend the portion of the meeting that addressed the Council's deliberation and decision on this matter.

The Director noted other members present to deliberate and vote from the April meeting included Chiefs Curran, Gross, Magnant and Wrenn, and Sheriff Carr, Attorney General Heed, and Judge Champagne. Chairman Prozzo turned the meeting over to Chief Wrenn, who chaired the April meeting.

After again reviewing the documents distributed by CO Blake at the previous meeting and a brief discussion regarding the time frame of the six-month suspension, the Council voted unanimously, following a motion by Chief Curran that was seconded by Sheriff Carr, to let the six-month suspension stand as being in line with previous decisions of the Council, because they found no mitigating circumstances to alter their decision. Warden Gerry, although present at the current and last meetings, recused himself from deliberation and vote on this matter.

### ***New Business***

#### ***Revocations/Suspensions/Surrenders***

##### **Suspension - Richard N. Ell, Manchester Police Department**

The Director told members that Officer Ell, who is represented by Attorney Eric Wilson of Nashua, was charged with DWI by State Police and ultimately convicted of Reckless Operation in the Manchester District Court. The Director stated that Council rule Pol 205.04 provides for an informal settlement of cases where the person can negotiate with the Director and does not necessarily have to appear before the Council and, if an agreement is reached the Director can present it to the Council for their consideration and/or approval.

The Council approved that course of action in Officer Ell's case and the Director presented the executed documents for the Council's motion and approval. The Council unanimously approved the settlement, which suspended Officer Ell's certification retroactive to January, 2004 and will commence through August 1, 2004. The motion was seconded by Warden Gerry. Judge Champagne did not participate in deliberation or vote on this matter.

##### **Sean P. Lalley**

Officer Lalley, formerly of the Mont Vernon Police Department, resigned in lieu of dismissal on 1/23/04 for intentionally omitting and misrepresenting information during his background investigation.

Chief Wrenn, seconded by Chief Magnant, voted to decertify Officer Lalley. The motion carried unanimously.

The Director confirmed to Chief Curran that the letter from the Chief of Mont Vernon regarding this individual would remain in the officer's file for future reference, along with the decertification action.

### Bristol Request for Declaratory Ruling

Chief Barry Wingate of the Bristol Police Department requested a waiver of Pol 101.30 (1300-hour annual maximum allowed hours for part-time officers) for two Bristol officers, Ernest W. Parmenter and Robert L. Bacon for the 2004 calendar year.

The Director explained to Chief Wingate that the Council by law cannot waive the rules, but the Chief sent a letter of request despite that advice, and the sense of the Director is that Chief Wingate is seeking some form of documentation to present to the town fathers explaining the Council's inability to change a rule.

Following a motion by Chief Wrenn that was seconded by Sheriff Carr, the Council voted unanimously to send Chief Wingate a letter advising him that the Council could not properly grant him a waiver on the 1300-hour rule because it is promulgated under law and the Council has no authority to waive any New Hampshire law.

### Prior Training & Experience Requests

#### *Full-Time*

The Director outlined requests for full-time certification based on prior training and experience for Officers Jeffrey T. Bird of the DMV Highway Patrol Department, Robert J. Schneiderhan, Chief of the Wentworth Police Department, Glen D. St. Amant of the Claremont Police Department, and a pre-hire determination for certification on David M. LoConte of the Exeter Police Department.

In response to a question from Chief Wrenn regarding Officer Bird, the Director told him the officer was no longer working in Massachusetts and had completed the application for employment form in New Hampshire prior to leaving employment in 2003. Chief Curran told the members Officer Bird is from Bristol, New Hampshire and that he had employed him without any problem many years ago.

Chief Wrenn noted his dislike of considering pre-hiring assessments, and Chief Curran added that backgrounds have not been completed on these requests. Judge Champagne said if the Council does decide to rule on these requests the stipulation should be added that the approval is based on the candidate meeting all necessary requirements (i.e. background investigation, etc.) without incident.

The Director said another option would be to complete a matrix and advise the requesting department what the probable Council ruling would be based on the completed matrix, at the same time advising the hiring agency that the final decision on the individual's certification would be up to the Council. Chief Wrenn preferred that option and the other members concurred.

The Director said he could also follow the suggestion of Chief Magnant not to address any pre-hire requests because the rules allow the Council to address pre-hires if they so choose but they can also set a policy not to do so. Chief Curran agreed and said many of the pre-hires waste the Council's time and the people are not hired.

Following the discussion, Chief Curran made a motion to follow the Director's recommendation and grant certification on prior training and experience to Officers Bird, Schneiderhan, and St. Amant upon successful completion of medical and physical agility tests, the NH Law Package at the full-time academy and First Aid/CPR recertification if lapsed. The motion was seconded by Sheriff Carr, and carried unanimously.

Chief Wrenn made a motion to have the Director send the Exeter Police Department a letter advising the Chief that the Council does not review pre-hiring requests and would only consider a request for certification based on prior training and experience after an individual is hired by a department and has submitted a completed Form A. The motion carried unanimously following a second by Judge Champagne.

Chief Magnant then made a motion to have the Council adopt a policy that they will not consider pre-hire requests, but that the Director could, at his discretion, complete a matrix that determines the eligibility for prior training and experience certification of an individual, to assist a department in their decision to hire an experienced officer, with the understanding that only the Council could approve such a request and further that the Council would consider such requests only after receipt of a Form A (Employee Status Notification form). The motion was seconded by Chief Curran, and carried unanimously.

#### Extension Requests

Following a motion and second by Chief Wrenn and Attorney General Heed respectively, the Council voted unanimously to grant an extension to Officer Christopher J. Hall of the Bethlehem Police Department, through the end of the 135<sup>th</sup> NH Police Academy.

Chief Curran made a motion to grant extensions as requested to Department of Corrections Officers Jay A. DeGreenia, Jesse H. Emery, Christopher Goyette, Jennifer A. Harris, Nicholas D. Macomber, Jeffrey D. Scholz, and Marianne M. Sylvester. The motion was seconded by Chief Wrenn, and carried unanimously.

#### Training Grants

The Council unanimously approved a grant to the Hampton Police Department to send two detectives to a Child Abuse & Exploitation Investigative Techniques course in Rochester, New York, following a motion and second by Chief Curran and Sheriff Carr respectively. Chief Wrenn did not take part in the discussion and vote on this item.

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

#### Non-Public Session to Discuss Personnel Issue(s)

Following a motion by Chief Curran that was seconded by Chief Wrenn, the Council voted unanimously on a roll-call vote, to enter into a non-public session at 9:41 a.m., for the purpose of discussing a personnel matter related to Dennis Durkin, formerly of the Durham Police Department.

Following the discussion, on a motion by Chief Curran that was seconded by Chief Wrenn, 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 Chief Wrenn and a roll-call vote, to exit the non-public session at 9:55 a.m.

Based on the information gathered in the non-public session, the Council refused to consider an informal settlement in this instance and asked the Director to notify Mr. Durkin that he must appear before the Council for a hearing.

### ***General Discussion***

The Director told members he wanted to clear up some misconceptions that have been circulating regarding the SOU teams and funding. He said that last year when the Department of Emergency Management was taken over by the Department of Safety, the Commissioner of Safety gained control over all the grant funding (last year \$22 million—this year projected as upwards of \$25 million) in home defense grants.

While still in the position of Assistant Director at Police Standards & Training, Director Lohmann was asked by Commissioner Flynn, and agreed, to serve on an ad hoc grant review committee that reviewed grants and made recommendations to the Commissioner of what requests should or should not get funding.

Last year \$250,000 was earmarked for hazmat teams, but no funding was awarded to SOU teams, which upset the police community. At that time Director Lohmann was approached (as a member of the ad hoc committee) by then-Assistant Commissioner John Stephen, who told him that the law enforcement community had contacted him to get a portion of the grant monies and he in turn asked for Director Lohmann's assistance with the ad hoc committee to get some funding for the SOU teams, which Director Lohmann agreed to do. The end result was a \$250,000 grant was earmarked for the SOU teams, the same as for the hazmat teams.

At that time a group was formed comprised basically of all the SOU teams around the state, called the NH Tactical Officers Association. Because the members of the ad hoc committee did not feel qualified to decide who should receive the grants, Director Lohmann approached the Tactical Officers Association and asked for their input into the dispersal of the funds. The Association ultimately identified 12 legitimate SOU teams in the state and recommended funding all of them equally, so each team was given approximately \$20,000 to spend on applicable equipment. A continuing concern of the Director's is that he doesn't want police departments to say they have SOU teams for the purpose of receiving federal grants, so he told the Tactical Officers Association he would like to see some standards put in place for guidance when issuing grants. An erroneous rumor circulating among the law enforcement community is that a department has to be a member of the Tactical Officers Association, and another group wants the Police Standards & Training Council to certify SOU teams, which would be a bad idea in Director Lohmann's opinion due to the liability issues.

At this point the same number of SWAT teams exist in the state that did last year, and the grant review committee has made a recommendation to the Commissioner of Safety that funds again be earmarked for SOU teams and, if the recommendation is accepted by the Commissioner, Director Lohmann will contact what is now called the Advisory Committee of the NH Tactical Officers Association

(which is comprised of the Chiefs of all the departments that provide officers to the different teams) to discuss with them how to divide the funds.

The Director said that additionally, right now there are two items of federal legislation—one is going to make homeland defense money starting in FY05 be threat-based—if that passes and threat becomes the criteria, New Hampshire will get very little funding after that. The other piece of legislation will put a floor in that each state will get a small amount of funding and then go to threat-based funding, which will reflect a slight improvement over the first planned legislation.

The Director told members he wanted to explain the funding process to the members because of the rumors circulating about the funding.

Chief Gross told members the federal government had done a complete threat assessment of the Nashua Police Department and a complete report identifying areas of concern is available to any department who want to review it to assist them in requesting funds.

Chairman Prozzo told members he was at a number of the meetings referred to by Director Lohmann, and he feels very good standardized criteria was put in place for the SOU teams. Chief Curran said he has officers on two teams and the funding has been used very well.

The Director said the \$250,000 in homeland security training funds can be used for overtime costs, for backfill costs, and for homeland defense approved courses. The Director said he is currently trying to get the ICS model city class training approved by the federal government so he can approve funding overtime and backfill costs for attendance at that. He said that when FY04 funds become available the federal government is saying that any IACP class that is homeland defense related will automatically be approved for funding.

The Director said he has been talking with Officer Robert Cormier from Plymouth, who is a part of the central team and Officer Cormier is in the process of putting together training for this summer at five sites—one will be the Manchester Airport, one a school, etc. All of the teams are invited to attend and they will rotate at the five sites for the training. The Director will try to get Safety to approve that training as well, and if it is it will cover overtime, backfill etc. for those officers. The Director told Officer Cormier that if federal funding isn't approved for this training Police Standards & Training will at least cover the cost of the trainers because both the training and cross-training is so important.

Sheriff Carr asked if communications people could also be sent to the training at least for the stress portion of it, and the Director said that would be a good idea.

Chief Curran asked if the Fire Academy was doing ICS and if police and fire were going to be doing it jointly, because if (the state) has an incident command police, fire and EMS are all going to be involved. The Director said the Fire Academy is doing ICS training for fire and EMS personnel. He said that because the Fire Service is about ten years ahead of law enforcement in ICS training, at this point he doesn't feel they should intermingle for joint training until law enforcement gets additional training to catch up.

The Director said he intends to send the ICS van to various communities to conduct their own scenarios with their local police, fire, public works and other community services. Also, beginning with the September NH Police Academy, the Director is implementing ICS training into the Academy so new recruits will have some exposure to ICS.

Chief Curran noted New Hampshire state statutes place the fire chief in charge of the scene at a fire, so cross-training is vital with them.

Sheriff Carr wondered if Ford or Chevrolet could be approached to donate the van that Administrative Services has just rejected. The Director said he is going to contact Administrative Services to find out if it is being re-bid or rejected, because if it is re-bid, it should come through and if not, then other measures could be taken. The Director explained the funds for the van were provided by a grant from the United States Attorney's office.

Chief Magnant commented that perhaps the US Attorney's Office could purchase the van and then donate it to the Academy, but Chief Curran cautioned that items donated to the state are controlled by the state in the future. Keith said the Academy is allowed to accept gifts, but the funds from the US Attorney have already been encumbered into the budget so he prefers to contact Administrative Services before pursuing any other avenues.

Chief Wrenn said the ICS training is very important and feels it should be given in the next fiscal year, and noted there are many well-written policies on ICS at many of the departments in the state that can be helpful to anyone needing them.

The Director said we have a model city here for any department to send an officer for ICS training to for now—the city just can't be broken down and sent to any department without the van.

The members were advised interviews are being conducted for the two Law Enforcement Training Specialist positions and the Assistant Director position should be posted soon. The Director said that in addition to having an internal process for hiring the next Assistant Director with participation from the Council members, he hopes to have a panel of academy directors from around the country participate in the process to get different perspectives and a sense of fairness.

### ***Adjournment***

The next meeting of the Council will be at 9:00 a.m. on Tuesday, June 22, 2004. Following a motion by Chief Wrenn that was seconded by Attorney General Heed, the Council adjourned the meeting by unanimous vote, at 10:23 a.m.

  
Chairman Michael L. Prozzo, Jr.