

## ***MINUTES***

***October 24, 2006***

The 353<sup>rd</sup> Meeting of the NH Police Standards and Training Council was called to order at 9:05 a.m. by Chairman Michael L. Prozzo, Jr., of the Sullivan County Sheriff's Department in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire.

***Members Present:*** Chief Michael J. Magnant, Portsmouth Police Department; Chief Gregory C. Dodge, Epping Police Department; Sheriff Scott A. Carr, Carroll County Sheriff's Department; Chief Timothy Russell, Henniker Police Department; Chief Peter P. Morency, Berlin Police Department; Associate Justice Stephen H. Roberts, Dover District Court; Associate Justice Norman E. Champagne, Manchester District Court; Executive Major Barry Hunter, designee of Colonel Frederick H. Booth, NH State Police; Assistant Commissioner Les Dolecal, designee of Commissioner William L. Wrenn, Jr., Department of Corrections; Deputy Commissioner Charles Annal, designee of Commissioner William G. Simonton of the NH Community Technical College System; and Deputy Attorney General Bud Fitch, designee of Attorney General Kelly A. Ayotte.

***Staff Present:*** Director Keith H. Lohmann, Assistant Director Robert B. Stafford, Jr., Paralegal Cassandra Erickson and Secretary Denise Crocker.

Colonel Frederick H. Booth, NH State Police, Commissioner William L. Wrenn, Jr., Department of Corrections; and Attorney General Kelly A. Ayotte were excused from today's meeting due to prior commitments.

***Guests:*** Chief Michael French, Goffstown Police Department; Director David Barrett, Marine Patrol; Chief Robert Aldrich, South Hampton Police Department; Officer Roy Jones, South Hampton Police Department; Neal Jones, Exeter Police Department; Chief Gilmore, Retired Chief Exeter Police Department.

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

Following a motion by Chief Dodge, seconded by Judge Champagne, the Council voted unanimously to accept the Minutes of the September 26, 2006 meeting as presented.

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

Sheriff Prozzo advised the Council that he requested the Director to try a different approach in presenting his report to the Council and asked the Director to include a written report with the Agenda package each month. The Chairman felt that with the time constraints and the amount of business that needs to be accomplished at each meeting this might be a more effective approach to covering all the material. With this method it allows the Director to cover additional items that may arise after the materials have been sent and allows the Council the opportunity to formulate questions on the information they received.

The Director presented the following additional items to his written report:

**HB 698.** This bill was in the last session and was PSTC's second attempt to raise additional revenue. It was voted "no legislation necessary" in the subcommittee; and again when it went to the full Ways and Means it received the same vote. Reportedly, some committee members were concerned that someone who was not convicted of a crime could have to pay a significant fine in penalty assessment fees. The Director believes if the Council is going to seek new sources of revenue it will be necessary to look elsewhere. Chief Magnant was present during this session and agreed with the Director. Chief Magnant did feel that the committee members in the room did understand the revenue issues of PSTC but finding consensus on how to resolve the problem was a whole different matter. The Director noted that it was quite probable that there would be a bill filed to rescind 1243 which was the bill passed last session which resulted in the fines reverting back to their original level. The Legislature is still caught up on the contingency fund that this agency holds in lieu of access to the General Fund.

**NHTI Cafeteria Expansion.** Assistant Director Bob Stafford met with the folks on the Cafeteria expansion. The Assistant Director indicated that the group was working with the architect and that the architect plans to meet with the users individually; there is also a food service consultant who will be meeting with the users later in the process but currently everything is still in the initial stages.

**IACP Meeting.** There was a meeting of the Post Directors from around the country on Saturday and Sunday the week before last. One of the items that the Director has asked to be put on the agenda was New Hampshire's experience with CALEA. Unofficially, of the 14 states that were present, five (5) spoke out about a negative experience with CALEA, which reinforces that New Hampshire is not alone in what we experienced.

**The Council had the following questions for the Director regarding his written report:**

Chief Russell asked if there was an update on the Marine Patrol issue that was outlined in the Director's Report. The Director noted that three Marine Patrol officers had been removed from the Part-Time School and a fourth Marine Patrol Officer who is not part of the Part-time School had resigned. The incident that resulted in the removal of these officers from the Part-Time School was an under-aged officer decided to have a party at her home while her parents were away. She invited a group of Marine Patrol Officers who were also underage. Laconia Police were called to her residence because of fireworks and there was alcohol at the party. The investigation is still ongoing. When Marine Patrol completes its investigation, PSTC will review it to see if there is any action required on our part.

Chief Magnant asked the Director to light upon the Retirement Report highlighted in his written report. The Director noted that in the past Admin Services has given PSTC a percentage figure to pay each year for Retirement benefits for PSTC employees. It was discovered during the LBA audit that the agency was not paying the actual costs of retiree benefits and the auditors took issue with that. PSTC then went back to Admin. Services and asked them to calculate the exact figure. At that time Admin Services showed little concern about the matter. Admin Services did a follow up audit to the LBA audit. The Admin Services Auditor also brought up the issue of retiree benefits and staff advised the auditor that we had already spoken with Admin Services about the matter and they seemed unconcerned about the issue. However, after our discussion with the Admin Services auditor, Admin Services did return with an accurate figure of what PSTC should be paying for retiree expenses.

This fiscal year, staff had budgeted that it would cost PSTC \$72,000 for retiree medical benefits. However, Administrative Services has revised its figure to reflect the actual amount owed and advised PSTC that it will cost \$144,000 to cover the retiree benefits this fiscal year and at least that in the future. This year the additional cost will have to be absorbed into our operating budget or PSTC will need to return, at the end of the fiscal year, to the Joint Fiscal Committee and request an additional appropriation from the contingency fund.

The question also arises in the 08/09 budget, which has already been constructed with the numbers that were originally given to us by Admin Services, of how we will cover the extra costs for this expense. The Director's estimate is that the cost is going to be approximately doubled from what was budgeted. The Director indicated that leaves the Council with three choices:

1. It gets absorbed in the original budget.
2. We ask for an amendment to our budget in one of two phases—the Legislative Phase or the Governor's Phase. The Director would recommend doing this during the Governor's phase.

3. We just let the budget go through as is and, if necessary, we ask for a supplemental appropriation through the Joint Fiscal Committee at the end of FY 08/09.

The amount will have to be paid; therefore, it is simply a matter of which approach the Council wishes to pursue to acquire the funds to pay for this expense. Judge Champagne asked for clarification of what this expense actually was and it was confirmed that this was the medical insurance section of the retirement benefits. The Council's consensus was that the Director should seek to amend the budget during the Governor Phase for FY08/09.

Chief Magnant asked if these corrected amounts were going to be retroactive. The Director indicated that these amounts were for FY07-forward.

**Following a motion by Chief Magnant, seconded by Chief Russell, to accept the Director's Report submitted with the agenda materials with the clarifications of the items outlined above, the Council voted unanimously to accept the Director's Report.**

### *Old Business*

**Academy De-Selection Procedures – Update.** The Council decided in June that the de-selection procedure would be last in, first out, which will be based on the date of hire. The Director sent a memo out to the Chiefs reflecting this procedure. He received a couple of phone calls from Chiefs who were unhappy with this new policy. The Director suggested that they send a letter to the Council and the Council would discuss their concerns. The Director noted that he has not received any correspondence supporting the concerns of these chiefs.

The Director has spoken with both Nashua and Manchester since these were two of the departments which would be significantly affected by the change. Chief Heffernan of Nashua indicated that he has already altered his hiring procedures to accommodate the changes in the policy and felt he would be all set. Chief Jaskolka of Manchester was reviewing the changes to see what adjustments he would need to make.

The Director noted that he had put this item on the agenda because he was expecting correspondence from the Chiefs that had called in with concerns. Chief Dodge indicated that Chief Garone was quite adamant that a different process be used and asked whether the Director had heard from him. The Director indicated that Chief Garone was the Chief that the Director had suggested write a letter to the Council outlining his concerns. He encouraged the Chief to make an alternative suggestion to the Council. The Director noted that in his conversation with the Chief he had stated that whatever procedure was finally implemented it would not be acceptable to everyone.

The Director discussed “slots” in the Academy. Slots really do not exist. No one gets denied slots. Only the names exist. As of right now, it appears that the winter academy is going to be very large and it may be necessary to invoke this policy at that time.

The Academy staff is monitoring how the Academy is progressing with such a large class. The Director has advised his staff that if they feel the maximum number of recruits needs to be set at less than capacity the Director would bring that recommendation before the Council. The Director noted he has also asked his staff to keep track of volunteer instructors since this was another concerned phone call he had received not to long ago. The Director had a couple of departments complain about the number of requests for volunteer instructors that the Council has been requesting and he wants to be able to calculate costs in the event that he is asked to pay volunteer adjunct instructor services.

**The Council’s consensus was that the process should move forward as set forth and adjusted, if necessary, after implementation should a specific area need to be fine tuned.**

Chief Russell noted that, in all-day classes, with an Academy this large 15-minute break periods stretch out to 30 minutes and valuable class time is lost. Class participation is also lost in classes of this size.

Sheriff Prozzo indicated that may be refresher classes need to be offered to assist in enhancing the original skills to re-enforce what might have been missed during the original training because of the large numbers in the original class.

**Madbury Compliance Case Update.** At the Council’s request back in June to investigate compliance issues, the Director hired retired Chief Don Gross to investigate compliance complaints; and for the most part, in the investigations that he has performed no significant problems were found. The Madbury case has proven to be somewhat different.

In the Town of Madbury, the part-time police chief is having some difficulty with the full-time deputy chief. When Don Gross went down there the Deputy Chief presented him a litany of complaints. In the process of investigating them, there does appear to be a few issues that the Council needs to review and decide whether a hearing should be scheduled.

**Issue #1**—George Taylor, who is the part-time chief, has not reported his hours since 1999. The Director doesn’t believe he has been exceeding his 1300-hour limit but he hasn’t report his hours and the basis of a part-time police officer is the number of hours he works. Therefore, he should be reporting his hours.

**Issue #2**—There was a police officer in Madbury who resigned and then came back within a year and there was no a background investigation done on that

officer. Clearly this is a violation of PSTC rules. Apparently when the Deputy Chief brought it to the Chief's attention, he sent out a letter to the Department from where the officer came and that Chief was unresponsive to his requests.

**Issue #3**—This issue is more serious. In 2004, Chief Taylor did not complete his firearms qualification. He qualified once but did not complete the second consecutive qualification. This was confirmed by both the Deputy Chief and the Firearms Instructor. The Firearms Instructor was from an adjoining department, not from Madbury. To further complicate the matter the Firearms Instructor signed the firearms form blank and handed it to Madbury PD to fill out after the firearms qualification was done. This resulted in PSTC receiving a form indicating that the Chief had qualified when in fact he had not. The Deputy Chief had kept a copy of the firearms form on which he had wrote that the Chief did not complete his firearms qualification. That, however, was not the form submitted to PSTC. The synopsis of the matter is we have a firearms instructor who signed a blank form, a deputy chief who filled out the form and a chief who signed the form with the form attesting that the chief completed the firearms qualification when, in fact, he did not. The Chief does dispute that allegation.

Complicating the matter even further is that starting in 2005 the Chief stopped carrying a firearm raising the issue that he doesn't need to complete a firearms qualification.

Chief Russell asked if the Deputy Chief was making all these allegations against the Chief. The Director indicated that he had received a two-page letter outlining a list of complaints from the Deputy Chief of which most of them had no bearing on Council rules. The Director noted that clearly there appeared to be some friction between them. Chief Russell suggested that a letter be sent to the Chief advising him that he is out of compliance and to respond to the Council that he has brought the above issues into compliance and to keep the Council informed in the future that he is maintaining compliance.

Sheriff Carr felt that the Chief should be brought before the Council to discuss these matters. Chief Russell then asked if the issues brought forth were allegations or was the Chief out of compliance. The Director responded that in regard to the firearms qualification, he is out of compliance. Chief Russell indicated that if the Council is going to bring the Chief before the Council for this issue then the Firearms Instructor and Deputy Chief should also come before the Council for their part in the process. Judge Roberts agreed that the bigger issue was the complicity of the other individuals. Judge Roberts asked the Director was the other Department aware of what the Firearms Instructor had done. The Director indicated that Firearms Instructor's Department was investigating the matter but no sanctions have been imposed on the officer as yet.

Judge Champagne stated that the Council should be consistent. If there has been a violation of PSTC rules and regulations the individuals should be brought in and cited.

Chief Magnant requested that the Council be distributed copies of Don Gross's report on the compliance investigation done on the Madbury Police Department to better familiarize themselves with this matter.

Sheriff Carr and Chief Morency felt the Chief should be brought before the Council to address the non-reporting of hours and the firearms qualification violations. Chief Russell requested that the Deputy Chief and the Firearms Instructor be brought in at same time. Sheriff Prozzo agreed that when it is clearly a violation of Council rules the individuals involved should come before the Council to explain their actions.

**The Council directed the Director to advise the individuals above that they are to appear before the Council at the next meeting to address the rule violations discovered by Don Gross during his compliance investigation.**

**Procedure for Reconsidering Council Decisions.** Commissioner Wrenn had asked that this topic be placed on the agenda. The Director noted that there is a procedure in place to address reconsideration of Council decisions. It is in PSTC rules under Pol 208 which states "if there is a request for a reconsideration or rehearing that the request is to be submitted in writing and the Council decides whether or not they are going to hear it and if they decide they are going to hear it, then the second step is to actually rehear it." The Director indicated that the Council can decide to do that in a single meeting or over two meetings.

The Director suggested that if the Council wants to control rehearing an issue over and over they could require a written request for each reconsideration and then hear the case the following meeting after deciding to rehear the issue. Sheriff Prozzo asked the Director if he had had the opportunity to discuss this directly with Commissioner Wrenn and the Director indicated he had not. The Director agreed he would contact Commissioner Wrenn and bring him up-to-date regarding this discussion. Sheriff Prozzo suggested that since there was a rule in place it would probably be best to simply follow the rule.

Chief Russell asked if that would hold true for policy decisions. Sheriff Prozzo indicated that the Council may change its direction on policy decisions depending on what is happening. The Director noted that the Council can vote to reconsider its own decisions; the Council doesn't need an outside request. Pol 208 does refer to handling outside requests for consideration.

**HR-218 Memo and Proposed Rulemaking.** The Director highlighted the proposed rule as set forth by the guidelines of the Council at the last Council Meeting. The proposed rule would allow any Council certified firearms instructor with the approval of the department that they work for to conduct the firearms qualification and/or the class instruction (although the intention of the Director is to put the class on line) for retired

police officers; and if they complete the qualification to send the paperwork into PSTC. PSTC would then send a letter to the retired police officer stating that they had met the firearms training requirement under the Federal law. Also reflected in the rule is that PSTC will not conduct firearms qualifications here on site. In summary, it would be up to each individual department and Council certified firearms instructor to decide who they want to qualify. There is no requirement that anybody qualify anyone. The Director asked the Council if they were prepared to move forward with the rulemaking process at this time; a public hearing will still have to be held, which will give the Council an additional opportunity to refine the rule if they so choose.

**The general consensus of the Council was the Director should move ahead with the rulemaking process for firearms qualification of retired police officers.**

**Amendment of Rule (Pol 301.05 (g) (8)).** The Director highlighted the proposed amendment that the Council requested Cassie Erickson to prepare for rule Pol 301.05 (g)(8) that the Merrimack Police Department brought before the Council at the August Council Meeting, which was the drug sale rule. At the August meeting, the Council requested Cassie to draft wording that would make the drug sale rule consistent with the drug use rule, referencing the 36 month, 24 month rule. The wording was included in the agenda packages and the Director asked the Council was it their intention to move forward with this amendment in the rulemaking process.

The Director noted that he did have contact from one department that was very upset about amending this rule. It was their feeling that it was too lenient. The Director suggested that this department come to the public hearing and voice their concerns there. The Post Directors are grappling with the same issue. The Director noted that from what he has read nationwide that if PSTC were to change our rule as it has been put forward it would be a little bit more lenient than many of the states that have decertification authority, not considerably, but somewhat. We may be slightly ahead of the curve here. Having said that, though, the Director noted, if you look at the states surrounding New Hampshire, PSTC's rules are significantly more stringent than most of those states.

Judge Roberts stated that he felt there is a significant distinction between possession and sales. Criminal statutes make a significant distinction and that's why our rules were probably written this way. Judge Roberts doesn't believe that sale and possession should be viewed in the same way.

The Director clarified sale for the Council. Historically, as of 2000 it was an absolute bar to law enforcement employment if an individual's action fell under the for sale status. Sale under 318 (2)(b) is determined if an individual has a "joint" and passes it to another individual that is considered sale under NH statute which constituted an absolute bar from working in law enforcement. Then, the law was revised to state that if the person was a juvenile when the sale took place and the individual did not make any money from it then it would be allowable by the Council. The current request from Merrimack Police



Department is to look at it under the same light for an adult as possession and that's the way staff drafted the amendment.

Judge Champagne felt that this rule should not be amended. Judge Champagne stated the issues arise from the definition of what constitutes a sale of drugs in New Hampshire.

The Director noted that if the individual were 16 and passed the "joint" to his friend that would not preclude him from a law enforcement career and what this amendment would do would be to expand that one step further and allow for the fact that if the individual were an adult and did the same thing it would not preclude him/her from entering a career in law enforcement.

Chief Morency feels that lowering our standards to have a larger candidate base was not an effective approach to attracting potential police officers. Chief Dodge indicated that when it was originally presented to the Council it seemed a reasonable change in the rule but upon discussing the amendment at the meeting today the Council was concerned about the impact.

Sheriff Carr agreed with Judge Champagne that the issue surrounds the definition of "sale" and the Council must decide what their threshold of acceptance is going to be. He agreed by implementing the amendment the Council will be lowering its standard.

On a motion by Judge Champagne, seconded by Chief Morency to not amend Rule Pol 301.05 (g)(8), the Council opened the matter for discussion. Assistant Commissioner Les Dolecal asked if the problem was aligning our policy with the current law. The Director indicated that that was not the issue. Deputy Attorney General Bud Fitch indicated that lowering the standards in law enforcement was inappropriate and sends an inappropriate message about how seriously we need to treat drug crimes and was contradictory to what the Attorney General is currently advocating. Sheriff Prozzo indicated that it is important to have potential rule changes in writing in order to review and reflect on such an action before reaching a final decision.

**Once again , On the motion by Judge Champagne, seconded by Chief Morency, to not amend Rule Pol 301.05 (g)(8), the Council voted unanimously to not amend this rule.**

**Donald L. Rose of the Department of Corrections** for violation of 402.02(a)(12)  
Simple Assault charge in Hooksett District Court.

The Director and his staff researched the Council's question from last month regarding precedent that had been set in past cases of a similar nature to the Rose case and he highlighted that information for the Council. There was one other situation similar to this case in 2005 and the Council's ruling in that case was that the officer's certification was

suspended for 6-months and all but 30 days were held in abeyance for one year conditioned on no further violations of Pol 402.02.

Sheriff Prozzo asked the Council if they wished to deliberate this case at this time. Members present for the Donald L. Rose Hearing at the September 26th Council Meeting and also present at this meeting were Chief Michael Magnant, Chief Gregory Dodge, Sheriff Scott Carr, Judge Norman Champagne, Executive Major Barry Hunter, Deputy Commissioner Charles Annal, and Chairman Michael Prozzo. These are the only Council Members who could deliberate and vote on the matters at this meeting.

Judge Champagne felt that the Director's explanation and clarification of precedent set were sufficient in this case to make a motion and further discussion and deliberations were unnecessary. Council members were comfortable with Judge Champagne's opinion.

**Thereby, on a motion by Judge Champagne to suspend Corrections Officer Donald L. Rose's certification for 6-months with all but 30 days being held in abeyance for one year until October 24, 2007, pending no further violations, seconded by Chief Magnant, the Council members hearing the case voted unanimously to the 6-month suspension with the stipulations outlined in Judge Champagne's motion.** Those members voting were Chief Michael Magnant, Chief Gregory Dodge, Sheriff Scott Carr, Judge Norman Champagne, Executive Major Barry Hunter, Deputy Commissioner Charles Annal, and Chairman Michael Prozzo.

### *New Business*

#### **Decertification/Suspensions/Revocations/Surrenders/Certification Eligibility Hearings**

**William McClellan, formally of the Conway Police Department** for violations of 402.02(a)(3) conviction of sexual assault in Carroll County Superior Court. The Director noted that he had received a letter from Mr. McClellan, who is Coos County jail, stating upon consultation with his attorney that he decided to surrender his certification. The Director will send Mr. McClellan a letter advising him that his surrender is equivalent to revocation and that he cannot seek to reinstate his certification for a minimum period of two years.

**Based on the fact that Mr. McClellan voluntarily surrendered his certification, on a motion by Judge Champagne, seconded by Chief Dodge to accept the surrender of Mr. McClellan's certification, the Council voted unanimously, with Sheriff Carr abstaining from the vote, to accept the surrender of William McClellan's certification.**

**Christopher Clark, Allentown Police Department** for violations of Pol. 301.05(g)(8), Pol 301.05(g)(9), Pol 301.05(g) and Pol 402.02(a)(9) the officer's certification was issued through administrative error. The Director noted that this case was removed from the agenda at Mr. Clark's attorney's request for a postponement to November.

**Roy Jones, South Hampton Police Department,** for violation of Pol 402.02(a)(3) has been convicted prior to or after certification of a misdemeanor for which there was a sentence of incarceration, regardless of whether all or part of the sentence was suspended.

Chairman Prozzo read and reviewed Council protocol with Officer Roy Jones. He advised Officer Jones that he could be represented by an attorney and asked if he wished the hearing to be heard in public or nonpublic session. Officer Jones was represented by Chief Aldrich, South Hampton Police Department. Officer Jones requested the hearing be heard in nonpublic session.

Following a motion made by Chief Dodge, seconded by Executive Major Hunter, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 10:00 a.m.

Following the hearing and deliberations of the matter, on a motion made by Chief Magnant, seconded by Chief Dodge, the Council voted unanimously to seal the minutes of the nonpublic session.

Then on a motion by Chief Dodge, seconded by Judge Roberts to exit the nonpublic session, the Council voted unanimously on a roll-call vote to exit the nonpublic session at 10:35 a.m.

**Upon return to public session on a motion by Judge Champagne to certify Officer Roy Jones conditionally upon his passing an acceptable polygraph examination as part of his background investigation, seconded by Judge Roberts, the Council opened the motion up for discussion.**

Chief Magnant felt that he didn't conclude from the discussions that there were major discrepancies in what the officer had stated and the background investigation and Chief Magnant felt that the polygraph was unnecessary. Judge Roberts felt that the polygraph would prove that the officer was credible and that his statements were truthful. Chief Russell was concerned who the polygraph examiner would be. Chief Russell wanted to be assured that the polygraph would be a polygraph examination and not an interrogation. Sheriff Prozzo stated that Dave Crawford would be the examiner. Chief Dodge asked who would pay for the polygraph. The Director indicated that typically if the Council was requiring the examination it would be at the Council's expense. Council agreed. Sheriff Prozzo agreed with Chief Magnant.

Sheriff Prozzo then asked the Council what would the Council's position be if the polygraph came back as inconclusive. Sheriff Prozzo also stated that Officer Jones

admitted to what he had done, he was remorseful, he was forthcoming with the information and Sheriff Prozzo was not convinced that the polygraph would provide a better view of this case. Sheriff Prozzo indicated he would vote against this motion. Judge Roberts asked if Sheriff Prozzo would support a proposed motion that the Council allow Officer Jones to go forward with certification finding just cause. Sheriff Prozzo indicated that was a motion he would support. He felt that was a more appropriate motion in this case. Judge Champagne felt all departments should be on the same playing field and since this department doesn't do polygraphs while other departments do, Judge Champagne felt this would be consistent with those departments who do. Sheriff Carr felt there were two distinctly different stories and the polygraph would clarify whether what the officer had stated was, in fact, what he honestly believed had occurred that night. Assistant Commissioner Les Dolecal felt that a polygraph would be overkill at this point in time and could cloud the whole issue if it were to come back as inconclusive. Chief Morency felt that taking the polygraph would give the officer the opportunity of putting the matter behind him and the Council's intent was to just look at his version of this matter and what the officer believes at this time. Chief Morency indicated he was comfortable with requiring the polygraph.

Concluding this lengthy discussion, Sheriff Prozzo called the vote on Judge Champagne's motion. **On a motion by Judge Champagne requiring Officer Roy Jones to submit to a polygraph examination performed by Dave Crawford, paid for by the Council, and upon his passing an acceptable polygraph examination to be determined by the Director as part of his background investigation, he would be permitted to graduate on November 4<sup>th</sup> and become certified, seconded by Judge Roberts, the Council voted seven (7) to five (5) against having Officer Jones take a polygraph to become certified. Those voting against were Chief Dodge, Assistant Commissioner Dolecal, Chief Russell, Deputy Commissioner Annal, Judge Roberts, Chief Magnant, and Sheriff Prozzo.**

**As a result of the first motion not passing, on a motion by Chief Russell finding just cause to permit Officer Roy Jones to move forward with certification and graduate with his class on November 4<sup>th</sup>, seconded by Judge Roberts, the Council voted to permit Officer Jones to move forward with his certification and graduate with his class with seven (7) for, three (3) opposed and two (2) choosing not to vote on this motion. Those opposed were Judge Champagne, Sheriff Carr and Chief Morency. Those members not voting were Deputy Attorney General Fitch and Executive Major Hunter.**

### ***Prior Training and Experience Requests***

**Daniel J. Nelson, Salem Police Department.** In the matter of the PT&E request of Daniel J. Nelson, on a motion by Chief Magnant, seconded by Deputy Attorney General Bud Fitch, that Daniel J. Nelson of the Salem Police Department be granted PT&E for full-time certification based upon staff recommendation, the Council voted unanimously

to grant Daniel Nelson full-time certification upon successful completion of the medical, PT, NH Law Package at the Full-Time Academy and First Aid/CPR, if lapsed.

### *Requests for Extensions*

#### **Full-Time**

##### **Philip Dion, New Hampton Police Department**

After the Director outlined the reason for the request for extension through the 142<sup>nd</sup> Academy, on a motion by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously to grant the extension through the 142<sup>nd</sup> Full-Time Academy to Officer Dion, New Hampton Police Department.

##### **Daniel J. Poirier, Boscawen Police Department**

After the Director outlined the reason for the request for extension through the 142<sup>nd</sup> Academy, on a motion by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously to grant the extension through the 142<sup>nd</sup> Full-Time Academy to Officer Poirier, Boscawen Police Department.

#### **Department of Corrections**

##### **Matthew Lewis, DOC**

After the Director outlined the reason for the request for extension through the 84<sup>th</sup> DOC Academy, on a motion by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously, with Assistant Commissioner Les Dolecal abstaining from the vote, to grant the extension through the 84<sup>th</sup> DOC Academy to Corrections Officer Matthew Lewis.

##### **Stanley Smith, DOC**

After the Director outlined the reason for the request for extension through the 84<sup>th</sup> DOC Academy, on a motion by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously, with Assistant Commissioner Les Dolecal abstaining from the vote, to grant the extension through the 84<sup>th</sup> DOC Academy to Corrections Officer Stanley Smith.

### *Specialized Training Grants*

#### **Command Training**

**North Hampton Police Department.** The Director outlined the request of the North Hampton Police Department to send an officer to Roger Williams University's Command Training Series First Line Supervisor's Course in Portsmouth, Rhode Island from January 22 – February 2, 2007 at a cost of \$1,000. On a motion by Chief Dodge, seconded by Chief Morency, the Council unanimously approved the grant request of the North Hampton Police Department to send one of the so-named officers (Detective Joshua Stokel or Officer James Russell or Officer Pete Cormier) to Roger Williams First Line Supervisor's Course in January, 2007.

### *Other Business*

#### **1. Requests to Exceed 1300-Hours Rule**

**Hillsborough County Sheriff's Department** The Director outlined the request of the Hillsborough County Sheriff's Department that part-time **Deputy Sheriff Michael Levesque** be granted a waiver of the 1300-hours rule and be permitted to work unlimited hours based upon his full-time certification. He was full-time certified on August 1, 1973 and was employed by Nashua Police Department from January 3, 1974 until he retired on August 1, 2004. He became employed by Hillsborough County on October 13, 2005. **On a motion by Chief Dodge seconded by Chief Morency, to grant the waiver of the 1300-hours rule to Deputy Sheriff Levesque, Hillsborough County Sheriff's Department, the Council voted unanimously to grant the waiver and permit Deputy Sheriff Michael Levesque to work unlimited hours.**

**Hillsborough County Sheriff's Department.** The Director outlined the request of the Hillsborough County Sheriff's Department that part-time **Deputy Sheriff John D. Murphy** be granted a waiver of the 1300-hours rule and be permitted to work unlimited hours based upon his full-time certification. He was full-time certified on August 31, 1979 and was employed by Manchester Police Department from December 11, 1978 until he retired on December 21, 2000. He became employed by Hillsborough County on January 15, 2003. **On a motion by Chief Dodge seconded by Chief Morency, to grant the waiver of the 1300-hours rule to Deputy Sheriff Murphy, Hillsborough County Sheriff's Department, the Council voted unanimously to grant the waiver and permit Deputy Sheriff John D. Murphy to work unlimited hours.**

**Hillsborough County Sheriff's Department.** The Director outlined the request of the Hillsborough County Sheriff's Department that part-time **Deputy Sheriff Charles L. Gilbert** be granted a waiver of the 1300-hours rule and be permitted to work unlimited

hours based upon his full-time certification. He was full-time certified on April 8, 1977 and was employed full-time by Hudson Police Department from September 5, 1976 until June 1, 1986, then he was employed part-time for Hudson Police Department from June 1, 1986 until October 22, 1990 at which time he returned to full time for Hudson PD from October 22, 1990 until he retired on July 30, 2005. He became employed by Hillsborough County on December 6, 2005. **On a motion by Chief Dodge seconded by Chief Morency, to grant the waiver of the 1300-hours rule to Deputy Sheriff Gilbert, Hillsborough County Sheriff's Department, the Council voted unanimously to grant the waiver and permit Deputy Sheriff Charles L. Gilbert to work unlimited hours.**

## **2. Goffstown Police Department – In-House Law Package Course**

The Director outlined the request of the Goffstown Police Department to run an In-House Law Package Course at their site. Chief Michael French from Goffstown was present to outline his request. Chief French indicated that the prime reason for this request was that his department has attracted a former NY Police Officer to join Goffstown PD and they believe this officer will not be required to attend the full-time academy and in order to move the process along more quickly to get the officer certified, Goffstown would like to run its own Law Package Course. The Chief indicated that this would also allow the opportunity for several of the part-time agencies that surround their community to take advantage of some additional training that they would not necessarily be able to acquire due to time and availability. Goffstown has an instructor on staff, Attorney Kerry Steckowych, who has been an instructor for the Police Academy since 1992.

Chief Dodge asked if any other department in New Hampshire was doing this sort of training. Sheriff Prozzo indicated that the Council would be entering new territory by permitting this request.

Judge Roberts questioned whether the course Goffstown would be offering would be the standard law package offered at the Academy and Chief French confirmed that it would be. Judge Roberts affirmed that the proposed instructor was a very good prosecutor and probably would be a very good instructor. Chief Magnant asked if this were a one time request or was the request to do this course for an ongoing basis. Chief French indicated that this request was to get this officer trained as quickly as possible. He did suggest that if it worked, he would consider offering the course again. Sheriff Carr also questioned whether the class would be exactly the same as the class offered at the Academy.

Assistant Commissioner Less Dolecal asked the Council whether this was a resource that could be used in the future. The Director indicated that his plans are that the Law Package will be offered through computer based learning probably within a year to 18 months. The Director has mixed emotions regarding having classes run by departments at their sites. As a matter of policy, it could result in departments around the state requesting to teach classes in-house and then PSTC would become responsible to monitor the schools that are running and the curriculum that is being taught. The Director noted if

the Council gives departments the approval to run courses at their sites that the testing should be done at PSTC only. It comes down to a matter of policy of whether the Council wants to be in the business of licensing external agencies to provide training. There are positive and negative aspects to this decision. The Director noted it would relieve some of the overcrowding problems.

Deputy Attorney General Bud Fitch felt there was a need to get as much training out there as possible. He felt that the Council should approve this request. This instructor is certified by PSTC, he is active and does instruct for the Academy. It may be appropriate to require the instructor to certify to the Director's satisfaction that he has completed all the components of the curriculum that would have been taught had it been done at the Academy.

Deputy Attorney General Fitch asked why this course couldn't be treated as a co-sponsored event by PSTC. The Director indicated that on in-service classes three items would have to be met for a class to be certified by PSTC: a copy of the curriculum, taught by a certified instructor, and a staff member would have to be present when that training was held so that he could testify that the instruction actually happened. The Director did note that this request was somewhat different. Judge Roberts agreed with Deputy Attorney General Fitch that by having the instructor certify that he taught the class as it was taught at the Academy and further by having the students certify that he indeed taught all the elements of the course there would be sufficient controls that would allow the Council to permit Goffstown to do this.

Chief Morency asked if the law package could be taught via satellite. The Director indicated that the room that is used to teach this course is not equipped with satellite capabilities and would require more equipment purchases to do that.

Chief Russell is concerned about precedent setting, with other departments requesting other in-house course requests. Deputy Commissioner Annal indicated that the college does this all the time and the key to doing this type of off-site training is credentialing. He offered to assist the Council if they decide to expand their programming through this type of training in the future.

Sheriff Prozzo felt this is another avenue to explore. He did feel that a certain level of control over the program needs to be maintained. Therefore as long as it is hour for hour, the same material, and that testing is done at PSTC, the Council should give it a try. Chief Magnant agreed with Sheriff Prozzo but asked the Director what his position on this matter was.

The Director felt he would be comfortable with the Council approving Goffstown's request if it were worded that this was a test case, as the Director doesn't feel the necessary controls and credentialing requirements are in place at this time to step in and move forward from a practical stand point if additional requests were initiated as a result of Council's action.



Chief Magnant asked the Director if Attorney Steckowych was certified to teach all the components of the Law Package. The Director indicated he may not be. Sheriff Prozzo indicated that we need to make sure that he is. Judge Champagne asked the Director didn't this instructor do this course at the Academy and the Director responded that he doesn't do the entire course.

**On a motion by Deputy Attorney General Fitch that Goffstown be permitted to run a one-time pilot program on the conditions that whoever is instructing is certified in the subject matter that he is instructing and that the instructor has recently taught at the Academy, seconded by Judge Champagne, the Council voted, with Chief Russell opposing, to permit Goffstown to run it's own in-house Law Package with the conditions listed above and that the Director report back to the Council on the results of this pilot program.**

#### **Director David Barrett – Marine Patrol**

The Director reiterated for the Council that they had requested Director Barrett to return to address the Council regarding the Marine Patrol's Training process and the reasons for large blocks of extension requests appearing at the same time.

Director Barrett advised the Council that their recruitment process begins in August to complete the interviews, backgrounds, PT's, psychs, and anything else that needs to be done by the middle of January. By the first weekend in February the new hires are in school and complete about 104 classroom hours of training and then another 40 hours of training on the water and an additional 40 hours of OJT with a veteran officer. By the time these new officers are on patrol around the end of June, they have had at least 180 hours of training; much of which is redundant to the Academy's training program.

Come the end of the season it is incumbent of these new officers to certify through the standard process; but by then the six months has expired and the Marine Patrol sends in the block of extensions so that some time during the off season these officers will enter a part-time officers' school near where they live. In essence these officers are being trained twice. There are some differences but most of the training is the same and many of the instructors are the same instructors that are used at the Academy. The issue is timing for the Marine Patrol. By the time these officers attend the part-time school they have had 180 hours of training and a season of supervised service.

Judge Roberts asked if a Marine Patrol Officer could serve two summers before attending the Part-Time School. Director Barrett indicated he did not believe that would occur. Director Lohmann noted that part-time schools are run in the fall, winter and spring so that typically they enroll in the fall or winter schools. Director Barrett stated that the clock starts ticking from the time they enter the training at the Marine Patrol's classroom training program.

Chief Morency brought up the concern that these officers are being employed and enforcing the rules while they are not PSTC certified and Chief Dodge brought up the concern of whether these officers were on their own whereas in other departments uncertified officers must be supervised by a full-time certified officer until they are certified by PSTC. Director Barrett indicated that these officers could be working on their own but they would have gone through the Marine Patrol's process which he restated was redundant to the Part-Time School. He noted one of the differences in the two programs was that the Marine Patrol did not teach Motor Vehicle Law. **Chief Morency requested that Director Barrett forward a copy of their curriculum to the Council for review.**

Sheriff Carr asked what the average age of the officers were. Director Barrett indicated that they range in all age brackets but if he had to make a guesstimate he would say 50% were below age 30. Sheriff Carr asked why there was such a turnover. Director Barrett indicated the younger officers are looking for full-time work and move on when the opportunity arises and then there is the group whose goal is non-law enforcement oriented. Director Barrett indicated that they employ approximately 88 officers; their goal is about 110 and that during the first year of employment, all the officers work without certification.

Director Barrett indicated the Commissioner Wrenn had suggested, during a previous meeting that Director Barrett had come before the Council, that maybe consideration should be given to having a separate certification for Marine Patrol. There would be a couple of curriculum issues to resolve because Marine Patrol doesn't teach Motor Vehicle Law, etc. Chief Russell thought this would be a valid consideration.

Judge Roberts asked if the Marine Patrol Officers were armed. Director Barrett indicated that all full-time officers are armed and the seasonal people who work the coast are armed. He indicated that would typically not be a new officer but could be. They would, however, have to be certified. These individuals most likely would be veterans or retired police officers. Everyone who is armed has gone through the firearms qualification course.

#### **NONPUBLIC SESSION – Personnel Matters**

Sheriff Prozzo asked to go into a nonpublic session to discuss personnel matters.

Following a motion made by Chief Dodge, seconded by Chief Morency, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 11:55 a.m.

Following discussions of the matter, on a motion made by Chief Dodge, seconded by Sheriff Carr, the Council voted unanimously to seal the minutes of the nonpublic session.

Then on a motion by Chief Dodge, seconded by Chief Morency to exit the nonpublic session, the Council voted unanimously on a roll-call vote to exit the nonpublic session at 12:25 p.m.

### **December Meeting**

The Council decided to have a December Meeting as a result of the increasing volume of business coming before them. The date that has been set for the December meeting is Tuesday, December 19, 2006, at 9:00 a.m. in the John D. Morton Conference Room.

### **Next Meeting Date/Adjournment**

After scheduling the next Council Meeting date for 9:00 a.m., Tuesday, November 28, 2006, in the John D. Morton Conference Room, the Council unanimously voted to adjourn the meeting at 12:35 p.m., on a motion by Chief Dodge and seconded by Chief Russell.

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Chairman Michael L. Prozzo, Jr.