

## ***MINUTES***

***February 28, 2006***

The 345<sup>th</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 Timothy Russell, Henniker Police Department; Sheriff Scott A. Carr, Carroll County Sheriff's Department; Chief Gregory C. Dodge, Epping Police Department; Chief Peter P. Morency, Berlin Police Department; Charles Annal, Deputy Commissioner and designee of Commissioner William G. Simonton of the NH Community Technical College System; Commissioner William L. Wrenn, Jr., Department of Corrections; and Attorney General Kelly A. Ayotte.

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

Chief Michael J. Magnant, Portsmouth Police Department, Associate Justice Stephen H. Roberts, Dover District Court; Associate Justice Norman E. Champagne, Manchester District Court; and Colonel Frederick H. Booth, NH State Police were excused from today's meeting due to prior commitments.

***Guests:*** Attorney Eric Wilson, Donald Bullock, Department of Corrections; Attorney Kevin Leonard, James P. McIntire, Bow Police Department, Martha K. McIntire, Scott E. Hilliard, Chief of Police, Northfield Police Department; Vincent A. Baiocchi, Chief of Police, Belmont Police Department; Jeff D. Jaran, Chief of Police, Bow Police Department.

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

Following a motion by Chief Morency, seconded by Sheriff Carr, the Council voted unanimously to accept the Minutes of January 24, 2006, as presented.

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

**Police Academy.** This Police Academy currently has 57 recruits. Two recruits this session have not done well in OC. The staff has some concerns. It has been decided to see how they do in survival and simunitions before a decision is made to have them do remedial work in OC.

**Paul Moller.** Our newest employee was injured by one of the recruits when the recruit accidentally

broke Paul's wrist during baton training.

**Academy Weeks 13 and 14.** The Academy will again do these optional two weeks of Homeland Defense Training. The Director's only concern is that during the last session the recruits returning for these two weeks adopted the lax habits of in-service students. The Director feels that a stricter regimen needs to be followed for these two weeks of training with these recruits. Commissioner Wrenn felt that discipline and decorum needs to be maintained in the classroom. Sheriff Russell felt there is a different standard of discipline for recruits than for in-service students. Sheriff Prozzo suggested letting the staff develop some recommendations for review. Commissioner Wrenn and Chief Morency agreed that reading newspapers and other unrelated classroom activities should not be permitted during class time. Discussion was held regarding giving consideration to making Weeks 13 and 14 mandatory with the April session. Phasing this process in is probably the best way to go. Chief Russell felt if there is going to be a change in the enforcement of the standard for the two-week training for these recruits then there needs to be the same change in the enforcement of the standard across the board for all in-service classes.

**Legislation Update.** The Director gave an update on the three bills filed concerning the Penalty Assessment: The first being HB 1411 which is dead; The Director then thanked Chief Morency, Chief Dodge, and Sheriff Prozzo for support and Chief Russell for testifying at the hearing on SB 298. In that hearing, Senator Morse indicated that he would see that if SB 298 passed that it would be amended so that it would not negatively impact PSTC. As of February 27<sup>th</sup>, there had been no movement on the bill. HB 1243, which was the companion house bill to SB 298, was voted out of Ways and Means as ITL and apparently is going to go to a floor fight. HB 1680, which was the bill on mental health training, was voted to interim study and the Director's feeling is that something will come out of that. The bill was originally going to require 40 hours of mandated mental health training for all police and correctional officers within the state to be accomplished in two years. The Director feels that it is likely that this bill could pass with a lesser amount of training being mandated. The Director is going to put together a computer based training program and will try to argue for a voluntary training program as he feels legislatively mandated training programs are not the way to go. The Criminal Justice and Safety Committee feels that police and correctional officers need more training in this area and are supporting the interim study of this bill.

**CALEA.** Back last fall, CALEA requested that PSTC sign a new agreement that had a provision which was causing PSTC a level of concern; namely, 16.3.3 – Training for reserve officers. Our NH Recognition has all the CALEA core elements in it except 16.3.3. At that time, CALEA gave PSTC an extension on 16.3.3; but CALEA additionally made some references to PSTC's Old Level 3, which is New Hampshire Accreditation. CALEA also had an issue with this accreditation. Mike French went down to the last CALEA meeting and apparently there were some commissioners who still have a problem with 16.3.3 and New Hampshire Recognition. The Director has drafted a letter to the CALEA Commissioners indicating that PSTC is not willing to negotiate on 16.3.3 and New Hampshire Recognition but would be willing to do away with New Hampshire Accreditation (Old Level 3). With the Council's approval, the Director will forward this letter to CALEA. The Director feels that this may be an ongoing point of dissension with CALEA.

**PERSONNEL MATTERS.** The Nationwide Advertisement for LATS has resulted in six possible

candidates both in-state and out-of-state. Interviews will begin shortly. The Director is in negotiations with State Personnel trying to work out the details surrounding the conversion of the positions to part-time.

**ENTRANCE PT TESTING.** The Director made an announcement at the last Chief's Meeting that PSTC would no longer be doing any retesting. The Director had also written a memo which has been distributed to the Council for review prior to mailing, reiterating that same message. The Council reviewed the memo and gave their approval to its content.

**COUNCIL RETREAT.** The Council Retreat will be held at the Christmas Farm Inn in Jackson, New Hampshire on Monday and Tuesday, March 27 and March 28, 2006, respectively. The regular business meeting will be held on Tuesday morning, March 28<sup>th</sup>. The annual planning meeting will be held on Monday. The Council decided to start the meeting on Monday at 10 AM. The Chairman requested that all members be prompt as there is a full agenda.

### **QUESTIONS FOR THE DIRECTOR**

**National Guard At Part-Time School.** After thinking about it, Chief Russell had some concerns over the decision the Council had made at the January meeting regarding allowing the National Guard to attend the part-time school. The Director clarified some points for the Chief. The Director outlined for the Chief that the National Guard Group that would be attending classes would be a military police unit. Those in this unit all have the equivalent of a secret clearance from the Army. All those attending the part-time school would be required to fill out the PSTC Form A. The background investigation that they did for their secret clearances would serve as their background investigation for PSTC purposes. The Chief asked the Director if he knew what the standard was; the Director indicated he did not but was willing to acquire that information. The Director noted that criminal records' checks were done by the National Guard on these guardsmen. The Director will make an inquiry about what is included in the background checks that the Guard does on their recruits and report back to the Council at the Retreat.

**Loss of Personnel.** Chief Morency asked if PSTC lost a maintenance person. The Director responded that Jon Bossey had left before the last Council Meeting and Jason Trefrey who is a friend of Jon's is leaving March 2nd to join Jon at the Veteran's Home in Tilton.

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

**Daniel Yoder, formerly of the Middleton Police Department** for violation of 404.02 (a) (5) as a result of his discharge from the Town of Middleton. Daniel Yoder is requesting reconsideration of the Council's decision to decertify him at their January 24, 2006 meeting.

The Director outlined Daniel Yoder's request for reconsideration noting that there was no new evidence presented and the Mr. Yoder is asking for reconsideration based on the record. Mr. Yoder's position is that something less than decertification is a more appropriate sanction in this case. The Director further noted that only those present for the previous hearing should vote on this matter. On a motion by Sheriff Carr, seconded by Attorney General Ayotte to not reconsider Mr. Yoder's request due to the fact that no new evidence was presented, the Council did not vote on this matter as it did not have a quorum with members present at this meeting. Therefore, this matter

was tabled until the March meeting.

### ***New Business***

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

##### **Certification Consideration Hearing- James P. McIntire, Bow Police Department.**

Chairman Prozzo read and reviewed Council protocol with Officer James P. McIntire. He advised Officer McIntire that he could be represented by an attorney and asked if he wished the hearing to be heard in public or nonpublic session. Mr. McIntire had his attorney, Kevin Leonard, present and requested that the hearing be heard in public session.

The Director read the following into the record: This is the matter of James P. McIntire, Bow Police Department. The Council is considering the potential for certification in light of violations of Pol 301.05 (g) (11), Pol 402.02 (a) (6), & 402.02 (a) (9). Mr. McIntire was hired by the Bow, New Hampshire Police Department and indicated in his background investigation that he had smoked marijuana twice, and as it turns out, once while he was employed by the Northfield and Gilmanton Police Departments. If he smoked marijuana while employed by Northfield and Gilmanton, it is a violation of 301.05 (g) (11) that says “while employed in a law enforcement capacity has ever illegally used a controlled substance” and would have been a violation of Pol 402.02 (a) (6)(a) “the officer has after having been hired as a police, corrections, parole or probation officer used marijuana.” If he did disclose the marijuana use during his background and was in violation of Pol 301.05 (g) (11) and 402.02 (a)(6) and the Council granted him PT&E without knowledge of his disclosure, then his certification was issued in error pursuant to 402.02 (a) (9) and the officer’s certificate was issued through administrative error.

Attorney Leonard and the Director have spoken and have come up with a list of stipulations which the Director read into the record as follows:

#### **In Re James McIntire Stipulation**

In a matter to be heard before the NH Police Standards and Training Council on February 28, 2006, the parties, Director Keith Lohmann and James P. McIntire through his attorney, C. Kevin Leonard, hereby stipulate to the following facts:

1. James McIntire was certified as a Full-Time Officer on November 17, 1989.
2. James McIntire was certified as a Part-Time officer based on his employment status from September 4, 1995 through July 6, 1999.
3. James McIntire was hired by Northfield Police Department as a Part-Time Officer on October 17, 1995 according to the Employee Status Notification Form A filed by the Northfield Police Department.
4. James McIntire was hired by Gilmanton Police Department as a Part-Time Officer on December 11, 1995 according to the Form A filed by Gilmanton Police Department dated January 3, 1996.
5. James McIntire resigned from the Northfield Police Department on July 9, 1999 according to the Employee Status Notification Form B dated September 13, 2001.
6. During 1996, James McIntire worked 431 hours for the Northfield Police Department according to the Affidavit of Hours filed by Chief Scott Hilliard dated January 21, 1997.
7. During 1997, James McIntire worked 234 hours for the Northfield Police Department according to the

Affidavit of Hours filed by Chief Scott Hilliard dated January 22, 1998.

8. During 1998, James McIntire worked fifty-five (55) hours for the Northfield Police Department according to the Affidavit of Hours filed by Chief Scott Hilliard, dated January 7, 1999.
9. James McIntire resigned from the Gilmanton Police Department on July 6, 1999 according to the Employee Status notification Form B dated August 3, 1999.
10. During 1997, James McIntire worked 91 hours for the Gilmanton Police Department according to the Affidavit of Hours filed by Chief Maurice Salmon dated January 27, 1998.
11. According to the records of the Police Standards & Training Council, James McIntire worked zero (0) hours for the Gilmanton Police Department during 1998.
12. James McIntire was notified that he failed to comply with Pol 404.05 (c)(2) regarding his firearms instructor certification, according to a letter dated December 22, 1997 from Captain John E. Clark.
13. James McIntire failed to complete four (4) of his required eight (8) hours of in-service training during 1997, according to a letter dated January 28, 1998 from Chief Scott Hilliard.
14. According to a letter from Director Earl Sweeney, dated February 5, 1998, James McIntire's police officer's certification was suspended for failing to complete the required eight (8) hours of in-service training for calendar year 1997.
15. James McIntire was hired by Belmont Police Department as a Full-Time Officer on July 14, 1999 according to the Employee Status Notification Form A dated July 15, 1999.
16. Belmont Police Department requested James McIntire be granted Full-Time Certification based on his prior training and experience according to the Council Form E dated July 15, 1999.
17. James McIntire was granted Full-Time Officer certification based on prior training and experience at the Police Standards and Training Council meeting on August 24, 1999.
18. James McIntire resigned from Belmont Police Department on April 1, 2000 according to the Employee Status Notification Form B filed by Belmont Police Department.
19. James McIntire was hired as a Full-Time Officer by Bow Police Department on July 22, 2005 according to the Employee Status Notification Form A dated July 29, 2005.
20. Bow Police Department requested James McIntire be granted Full-Time Certification based on his prior training and experience according to the application dated January 5, 2006.
21. James McIntire voluntarily disclosed using marijuana once in September or October of 1997 on the Application for Prior Training and Experience and a supplement to the Application for Prior Training and Experience dated January 20, 2006.
22. During the background investigation by the Belmont Police Department, James McIntire voluntarily disclosed using marijuana once in September or October of 1997.
23. Enter Northfield Police Department Employee Status Notification Form A as Staff Exhibit A.
24. Enter Gilmanton Police Department Employee Status Notification Form A as Staff Exhibit B.
25. Enter Northfield Police Department Employee Status Notification Form B as Staff Exhibit C.
26. Enter Gilmanton Police Department Employee Status Notification Form B as Staff Exhibit D.
27. Enter Northfield Police Department's 1997 Affidavit of Hours Worked for Part-Time Officers as Staff Exhibit E.
28. Enter Gilmanton Police Department's 1997 Affidavit of Hours Worked for Part-Time Officers as Staff Exhibit F.
29. Enter Belmont Police Department's Employee Status Notification Form A as Staff Exhibit G.
30. Enter Belmont Police Department's Prior Training and Experience Certification Request Council Form E as Staff Exhibit H.
31. Enter Council Point Evaluation Worksheet for Prior Training and Experience completed by Charles Hemp as Staff Exhibit I.
32. Enter letter dated September 12, 1999 from Academy Secretary Nancy Otis as Staff Exhibit J.
33. Enter Full-Time Officer Certification dated November 17, 1989 as Staff Exhibit K.
34. Enter Full-Time Officer Certification dated August 24, 1999 as Staff Exhibit L.
35. Enter Belmont Police Department's Employee Status Notification Form B as Staff Exhibit M.

36. Enter Bow Police Department's Employee Status Notification Form A as Staff Exhibit N.
37. Enter James McIntire's Application for Prior Training and Experience Certification dated January 5, 2006 as Staff Exhibit O.
38. Enter James McIntire's Supplemental Letter dated January 20, 2006 as Staff Exhibit P.
39. Enter Belmont Police Department's Background Investigation as Staff Exhibit
40. Enter Letter of Commendation, dated October 6, 1992 from Chief Paul Leary, Northfield Police Department as Respondent's Exhibit 1.
41. Enter Meritorious Service Award from Laconia Police Department, dated January 29, 1994 as Respondent's Exhibit 2.
42. Enter Letter of Commendation from Laconia Police Department, dated June 21, 1994 as Respondent's Exhibit 3.
43. Enter Letter of Commendation from a Laconia Citizen, dated July 13, 1994 as Respondent's Exhibit 4.
44. Enter Letter of Commendation from Laconia Police Department, dated January 16, 1995 as Respondent's Exhibit 5.
45. Enter Letter of Recommendation from Laconia Police Department, dated May 31, 1995 as Respondent's Exhibit 6.
46. Enter Letter of Appreciation from Belknap County Attorney, dated July 14, 1995 as Respondent's Exhibit 7.
47. Enter Northfield Police Department's 1996 Affidavit of Hours Worked for Part-Time Officers as Respondent's Exhibit 8.
48. Enter letter dated December 22, 1997 from Captain John E. Clark as Respondent's Exhibit 9.
49. Enter letter dated January 28, 1999 from Scott E. Hilliard, Chief of Police, Northfield Police Department, as Respondent's Exhibit 10.
50. Enter letter dated February 5, 1998 from Earl M. Sweeney, Director, as Respondent's Exhibit 11.
51. Enter Northfield Police Department's 1998 Affidavit of Hours Worked for Part-Time Officers as Respondent's Exhibit 12.
52. Enter letter from Thomas J. Oettinger, Chief of Police, Laconia Police Department, dated February 14, 2006 as Respondent's Exhibit 13.
53. Enter Officer Training Record, Police Standards & Training Council as Respondent's Exhibit 14.
54. Enter letter from Dan Collis, Sheriff, Belknap County Sheriff's Department as Respondent's Exhibit 15.
55. Enter polygraph report from Belknap County as Respondent's Exhibit 16.

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James McIntire

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Keith H. Lohmann  
Director, NH PSTC

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C. Kevin Leonard, Esquire  
Counsel for James McIntire

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Sheriff Michael Prozzo  
Chairman, NH PSTC

Kevin Leonard, James McIntire's Counsel, made the following opening statement for the Council. He stated that he and his client were here today because of a voluntary disclosure by his client, Jim McIntire. Mr. McIntire disclosed prior drug use in September/October 1997. Today, he told the Council, they were going to hear Jim McIntire acknowledge that that was a mistake. A mistake that he regrets. He was actually quite embarrassed that he was here today to have to talk about that behavior. He asked the Council to keep in mind that they're here because Mr. McIntire voluntarily disclosed that information; he disclosed it at every opportunity in a background investigation—at

the Belmont Police Department and at the Bow Police Department. Attorney Leonard stated that Mr. McIntire passed all polygraph tests that he was given and that all polygraph tests were determined to be truthful. He noted that Mr. McIntire just voluntarily disclosed this information. He advised the Council that they were going to hear testimony that Jim McIntire was experiencing personal problems at the end of the summer/beginning of the fall of 1997. He indicated that by no means did that condone the mistake that Jim McIntire made but he wants the Council to understand Mr. McIntire as a person and what he was experiencing at that time. He stated that the Council needed the context of what was going on in Jim's McIntire's life at that time.

It was based on those marital problems that he was experiencing that he approached the Chief at Northfield and then Sergeant Baiocchetti at Gilmanton. He explained his personal problems to both departments at which he was a part-time police officer. The reactions at both departments were to take as much time as he needed to get his marital problems worked out; that's the most important thing. That's what Jim did. From that discussion with Northfield and Gilmanton, which was in the late summer, early fall of 1997, Jim McIntire did not work a single hour for Northfield or Gilmanton Police Departments. Jim understood his status as inactive. Northfield understood his work status as inactive; Gilmanton understood his work status as inactive. In fact, Jim never returned to work at Gilmanton. He worked 0 hours after this discussion with Sergeant Baiocchetti in late summer, early fall 1997. In January of 1998 till April 1998, Jim was in the Military in Georgia. He wasn't working any hours for any New Hampshire Police Department while in Georgia. When he came back in 1998, he worked 55 hours for Northfield which is about 3.5 shifts. That's what the evidence will demonstrate.

Again, Jim voluntarily disclosed this information to Belmont and Bow in the background investigations. In fact, both departments certified that they conducted a background investigation of Jim McIntire and both chiefs signed the forms submitted to this Council that they reviewed his background and both Belmont and Bow determined, that he met the minimum qualifications. As this Council knows, under its regulations, it is the hiring authority that conducts the background investigations and determines whether that officer meets the requirements of the Council. That happened in this case. It happened by Belmont and it happened by Bow. That determination and certification is taken seriously by Chief Jaran. He made that certification and submitted to the Council. The background investigation revealed to Chief Jaran that Jim's work status at Northfield and Gilmanton was that of inactive when this prior drug use occurred. This prior drug use was disclosed to Chief Jaran; he was aware of it. His understanding of Jim's work status was inactive. That is what the testimony is going to demonstrate to this Council.

At the conclusion of testimony, what we would request of the Council is that Jim be made eligible to be certified as a full-time police officer.

At this time Mr. McIntire was sworn in to testify. Mr. McIntire noted that he graduated from the 88<sup>th</sup> session of NH Police Academy in 1989 and received the Class Achievement Award. Mr. McIntire's first position was as a part-time officer with the Northfield Police Department who sponsored him as he put himself through the police academy. He worked full-time for Northfield from 1989 – 1993. In 1993, he went to work for the Laconia Police Department for two years. In 1995, Mr. McIntire resigned from full-time law enforcement and started his own construction

business. He returned to Northfield Police Department as a part-time officer in 1995. In December 1995, Mr. McIntire stated he began working for Gilmanton as a part-time officer. He attested that he worked 431 hours for Northfield in 1996. He believes he worked about 5 hours for Gilmanton in 1996. In 1997, Mr. McIntire stated he worked 234 hours for Northfield Police Department from January to September 1997. In Gilmanton, he stated he worked 91 hours from January to September 1997. He stated that he did not work any hours for either department for the balance of that year due to marital problems which he shared with Chief Hilliard of Northfield and Sergeant Baiocchetti who both advised Mr. McIntire to take as much time as he needed to work out his personal matters. In fact, Mr. McIntire stated he never worked for Gilmanton Police Department again after that discussion with the Sergeant.

During this time of Mr. McIntire's personal issues and after the time he had the discussion of these matters with Chief Hilliard and Sergeant Baiocchetti, Mr. McIntire stated that he was at a house with two friends and he was commiserating about his situation. They were all consuming alcohol and at some point in the evening a marijuana cigarette was passed around and he foolishly took a puff of the cigarette and that was the extent of his disclosure. He stated he has always told the truth about it when asked.

He stated that now and even then he felt it was an incredibly foolish thing to do and he is ashamed of it. Between September and November, 1997, Mr. McIntire stated he made a personal decision to join the Army National Guard and in December enlisted and left for basic training in January 1998.

He stated that after he had that discussion with the Chief and Sergeant at Northfield and Gilmanton, respectively, he understood his work status was inactive and that he was not available to work. He stated that he didn't even think about it for the months that he was gone. He noted he received correspondence from Captain Clark, dated December 22, 1997, while he was on inactive status that his firearms instructor certification had been suspended because he had not met the requirements to maintain the certification. He also noted he had received correspondence from then Director Earl Sweeny, dated February 5, 1998, advising him that he had not done the required in-service training for the calendar year 1997 and that his certification was being temporarily suspended. This letter arrived while he was away at basic training. He returned from basic training in May, 1998.

Mr. McIntire stated that he had not recalled working for Northfield Police Department in 1998 when he returned from Basic Training; but when he reviewed his records it showed that he had attended a 14-hour advanced report writing class for certification and had in fact worked 55 hours for Northfield. Mr. McIntire stated that upon return from basic training he resumed running his construction business. In 1998, Mr. McIntire stated he was approached by Belmont Police Department and encouraged to apply for a School Resource Officer's position. He did not get that position but was offered another position as patrolman in 1999. He stated that Belmont conducted a background investigation and that he had a polygraph test and that he disclosed prior marijuana use in high school and the 1997 use he testified to today. He stated he was granted prior training and experience for certification in 1999 based on the materials submitted by the Belmont Police Department. Mr. McIntire spent a year with the Belmont Police Department and then returned to the building construction industry. He stated he has been in the construction industry since he left Belmont Police Department and until he applied to Bow Police Department in 2005.



Mr. McIntire stated that he continually returns to law enforcement from the construction business because this is something he believes in; that this is always something he has wanted to do. He stated he has two talents—construction and law enforcement and he enjoys doing both of them. He stated maturity has brought him back to seek law enforcement as a career.

Mr. McIntire stated that an officer with 23 years experience conducted his background investigation. He stated he did disclose his prior drug use in the context of a polygraph test. He stated that Bow submitted his application for prior training and experience to PSTC and that in that application he had disclosed his prior drug use in 1997 on Page 5. Mr. McIntire stated that his Sergeant advised him that PSTC had a question on the answer to that question and that he needed to clarify his answer with a supplemental letter. In trying to clarify the answer in the letter he noted he apparently caused more confusion. He clarified an error in the letter for the Council stating that when he typed the letter he did not recall that he had worked for Northfield in 1998 off the top of his head but when he reviewed he records for the hearing he found that he had worked during that year.

Mr. McIntire's attorney asked the Council to please note the letters of commendation and accolades over his law enforcement career (respondents Exhibits 1-7)

Mr. McIntire stated he has always been truthful about his background investigations and that he has been truthful in his testimony to the Council today in regard to his prior drug use. He stated that the outcome that he would like to see today is that the Council will certify him and that he will be able to keep his job as a police officer.

### **Questions from the Council**

The Director asked Mr. McIntire what his work schedule was for Northfield and Gilmanton Police Departments in 1996? He stated that he worked quite a few hours in the evenings in 1996 during the entire year. The Director then asked Mr. McIntire that if he worked Saturday night for one of the departments in 1996 and Sunday morning he was off duty, was he a police officer during the time he was off duty? Mr. McIntire indicated that he was. The Director then reiterated that Mr. McIntire testified that he didn't work any hours from September on in 1997 for Gilmanton or Northfield and the Director then asked him was he a police officer during that period? Mr. McIntire's response was in 1997 he was an active police officer from January to September and from the period in question he was an inactive police officer. The Director asked the same question again. Mr. McIntire's response to the question "was he a police officer during that period?" was "yes, I was."

Commission Wrenn requested a reading of Pol 301.05. (g) (11) "The hiring authority shall evaluate the results of its background investigation and shall not appoint or invest with authority an applicant who while employed in a law enforcement capacity has ever illegally used a controlled substance." Commissioner Wrenn asked what was Mr. McIntire looking for the Council to do since there is command language that pretty much dictates the outcome of this.

Mr. McIntire's attorney argued the point that it is necessary to determine what it means to be "while employed." He stated the Director's position is that if you've got a certification, and you don't

resign to this date, and you do something in between, it's black and white. Attorney Leonard indicated that he doesn't think it is black and white and that determination was made by two hiring authorities. Commissioner Wrenn indicated that there is no official inactive status in this state when it comes to police officers and there is not enough evidence before the Council to verify that he requested a leave of absence. Attorney Leonard argued that it is not Mr. McIntire's position to submit a form to the Council to determine some official inactive status. It is based on who writes him a pay check and that was Northfield and Gilmanton at that time. At both of those hiring authorities, he was inactive. He wasn't working any hours. Let's take Gilmanton, he never even worked again for them.

The Commissioner asked Attorney Leonard if he was prepared to tell the Council that in those communities he no longer was a police officer in a way that he had no police authority or powers whatsoever once he left. Attorney Leonard indicated that was their position. The Commissioner further questioned Attorney Leonard regarding that position without any formal documentation. Attorney Leonard stated that it was an arrangement Mr. McIntire had with the hiring departments. Attorney Leonard further stated that if the hiring department needed to send the Council specific forms that it was not Jim McIntire's responsibility. He fulfilled his responsibility by going to his employers and advising them that he needed a leave of absence and he had that leave. Commissioner Wrenn then indicated if he could view the rules and regulations from these departments and the Town policies that state that when an officer is considered inactive he does not have any police powers and that he is not officially a police officer at that time, it might be a convincing argument. Commissioner Wrenn also commented on the carelessness of the polygraph examiner due to a discrepancy in the report noting in one section it stated illegal drug use "no" and then on question 41 in notes "not more than twice."

Chief Russell then questioned Mr. McIntire as to what town he was in when he had smoked the marijuana cigarette and whether he was a police officer in that town at that time. Mr. McIntire noted that he was in Belmont and he was not a police officer there at that time. Chief Russell was also concerned about the inaccuracies in the letter that Mr. McIntire had written for Bow. Chief Russell questioned Mr. McIntire regarding whether he was aware that his career might hinge upon the facts he put in that letter. Mr. McIntire stated that because the drug use had been disclosed back in 1999 he had no idea that this was what the Director was asking the department Sergeant for; he thought it was just clarification of information for coming to the April Academy. It wasn't until he received the letter from the Director that he realized his career was on the line.

At this time Chief Scott E. Hilliard of the Northfield Police Department was sworn in to testify. Chief Hilliard verified the hours that Mr. McIntire worked in 1996 and 1997. He also confirmed that Mr. McIntire was having some personal problems during the late summer/early fall. Chief Hilliard recalled that in his conversation with Jim McIntire at that time was that he left police work to devote time to his construction business. The Chief stated that he had told Jim McIntire to take the time he needed, do what ever you need to do to get your marriage together, the Chief indicated he didn't want to be responsible for Mr. McIntire giving up his marriage to work a couple hours for him when the Chief could fill the hours with someone else if he had to. He told Mr. McIntire to come back when he was ready and to just let him know. The Chief verified that Jim McIntire did not work any hours after his conversation with him. The Chief agreed that Jim McIntire's employment status was inactive and he had informed his lieutenant not to schedule Mr. McIntire for

any hours.

The Chief stated that Northfield had a written policy for leave of absence/inactive status for full-time employees but not for part-time employees. Since Mr. McIntire was a part-time employee it was a determination Chief Hilliard made. Chief Hilliard indicated that Jim McIntire is a great cop, fellow officers like him, people like him, he does a great job. Chief Hilliard said he saw what people saw in Mr. McIntire; he saw Jim McIntire's integrity. He saw how he handled the public. He is an aggressive cop, but not overly aggressive. He is good with people. He's got a pleasant personality. He's a good cop. The Chief stated in 1998, Jim McIntire was not ready to return to work and he left in a heat of passion and the Chief noted that he actually sanctioned his lieutenant for it. Jim McIntire is the type of officer most police chiefs want to see out there protecting our citizens. Jim McIntire is honest to a fault. Chief Hilliard asked the Council to look cautiously at all of the evidence here and he understands the squeeze that some of the Council members feel but the Chief feels that this is an exception and stated he would not be here if he felt that Jim McIntire had just gone out and smoked dope for the sake of smoking dope. The Chief believes that Jim McIntire is what he said he is and yes he made a mistake and he hopes it is not to his detriment.

When asked if Jim McIntire applied to Northfield Police Department today would the Chief hire him and the Chief indicated that was an affirmative.

The Director asked the Chief if he was aware of the Council Form B and asked if he ever filed a Form B prior to Mr. McIntire's resignation in 1999. The Chief indicated he had not. The Director asked the Chief whether, in his opinion, James McIntire was a police officer for the Town of Northfield for the entire year of 1997 and 1998. The chief indicated he was inactive but he was a police officer. The Director then asked, "If Mr. McIntire had been arrested for his use of marijuana in 1997, would you have been required to file a Council Form G?" The Chief indicated yes he would have.

The Attorney General asked the Chief whether he considered the officer to be employed by Northfield when he was on inactive status. The Chief indicated basically no that he considered him to be on leave. It would have been up to him (the Chief) to go back to the scheduling officer and advise him that Mr. McIntire was coming back to work.

Commissioner Wrenn asked the Chief if their department has a personnel order system and was a personnel order generated that put him out on some sort of leave status. The Chief indicated there was only a verbal order issued. The Chief further indicated that there was no written documentation added to Mr. McIntire's file. Commissioner Wrenn questioned the Chief regarding whether Mr. McIntire had turned in his badges and service weapon and the Chief indicated he had not. Commissioner Wrenn further questioned whether the Chief had a discussion with Mr. McIntire regarding his police authority in the Northfield jurisdiction and the Chief indicated he had not.

Chief Morency asked if the Town incurred any expenses related to Mr. McIntire while he was on inactive status and the Chief indicated no expenses were incurred.

Chief Russell asked Chief Hilliard if the Chief would have expected Mr. McIntire to act if he had witnessed a crime while he was on inactive status. The Chief stated he would have expected that.

Sheriff Prozzo asked the Chief if there had been an “all hands on deck” emergency would Mr. McIntire have been called in and the Chief responded yes.

Chief Baiocchetti was sworn in to answer Council questions. The questions posed by Council were the same questions that were posed to Chief Hilliard by Commissioner Wrenn. Chief Baiocchetti then a sergeant also confirmed that there was no documentation generated by his department at that time regarding Mr. McIntire’s employment status. Chief Baiocchetti could not confirm the answers to the rest of the questions asked by Chief Wrenn as he indicated that these would have been items handled above his pay grade at the point in time. The record so notes that Chief Baiocchetti holds the same high regard for Mr. McIntire as a police officer that Chief Hilliard had stated in his testimony.

Chief Jaran of Bow was sworn in next. Chief Jaran confirmed that a background investigation was done on Mr. McIntire. The officer that performed the background investigation on Mr. McIntire had 23 years experience. The background investigation officer checked with the departments he had worked with and all of them gave him great reviews and noted that they would have liked to have had him back in their departments. The background did disclose the indiscretion he had eight or nine years ago. Chief Jaran noted he looked at that and since it had been disclosed when he applied for recertification for the Belmont Police Department and that certification was granted, given that and the outstanding references he had, the Chief signed off on that form. Chief Jaran understands the situation but he still stands by Jim McIntire as a police officer. He has been turn-key since he has come to Bow. He was involved in a murder suicide that just occurred in Bow and the Attorney General’s Office Investigators had great reviews on how Officer McIntire handled himself on the major crime. They worked with him very closely and said he was an outstanding officer. This is a difficult time for him and for Bow Police Department. He is truly an asset.

Chief Jaran stated he did not realize the severity of this meeting today until he received a letter from the Director and he requested to go on record stating that he did not appreciate how this whole situation was handled from the beginning. He stated he received one or two brief phone calls from Assistant Director Bob Stafford and he wasn’t pleased with the tones of those conversations. In the initial inquiry, the staff was seeking information and we provided it. The Chief indicated he will go on record saying that at no time has Jim McIntire ever tried to lie, deceive or try to hide any part of this incident. As a matter of fact, he has disclosed it twice now. The only reason he believes this was even discovered was that they were asked to send two forms down--the long and short forms to PSTC. After these forms were received by the Academy, the second inquiry came to light from Bob Stafford asking that Mr. McIntire provide clarification of the incident at hand.

Chief Jaran acknowledged he was aware through the background investigation of the prior drug use in 1997. He was also under the understanding that Mr. McIntire’s employment status was inactive in those police departments at that time and the then Director Sweeny issued certification on prior training and experience based on the same information that Bow PD is now submitting for a second time. Chief Jaran indicated that he had a phone call with Earl Sweeney who commended him for being able to get Jim McIntire onto the Bow Police Department.

Chief Jaran feels that this case needs to be reviewed on an individual basis. He would like to see

Jim McIntire get his certification. If the Council is still concerned about the isolated drug use incident, the department is willing to put Mr. McIntire through random drug testing for an indeterminate amount of time. The Chief also pointed out that this incident that is being discussed happened almost a decade ago and there hasn't been another since that time. He has been an upstanding citizen in and out of law enforcement.

The Attorney General asked the question whether the package submitted to Earl Sweeney by Belmont contained the same information as the package sent down by Bow for Council approval. Commissioner Wrenn indicated that the current package has more information required than the prior package had.

Commissioner Wrenn asked the Chief how he reconciled the fact that the officer had smoked marijuana while he was a police officer. The Chief responded he made that decision based on the information given by the Lieutenant who did the investigation and the fact that the overall reports were glowing on this officer and that statements were made that the officer was not working as a police officer at the time. Further, in speaking with Earl Sweeney, Earl also had a very high regard for this officer. According to Chief Jaran, he did have a conversation with Earl Sweeney regarding this matter when Jim McIntire received the notice to appear for hearing and he told the Council that Mr. Sweeney's response was in light of the circumstances and the amount of time that had passed he thought that the Council could work through this and he encouraged that to be done. Chief Jaran stated that if Earl Sweeney could be here today he would stand by Mr. McIntire as well.

Commissioner Wrenn still questioned whether the Council was bound by command language. The Chief indicated that Director Sweeney had suggested looking at the Policy which gives the Council the authority to interpret the policy and make an exception.

The Attorney General asked if there were any just cause provisions in the PSTC rules? The Director indicated that 402.02 which is the decert ruling has a just cause provision in it. "The Council shall revoke unless they find just cause to do otherwise." However, under 301.05 the background investigation rules there is no just cause provision. The Attorney General then asked the Director if the term "employed" is defined in the rules. The Director indicated that the rules and regulations define employee but not employment. "Employee is defined as any person serving as a police, correction, or probation/parole officer appointed or elected." The Attorney General asked the Director to explain the differences in the paperwork submission by Belmont in 1999 and in Bow in 2005. In 1999, Bow would have only submitted a Form A and short Form E. No drug usage would have come out on these forms. Commissioner Wrenn noted that the long background form was developed after this time.

Chief Russell returned to question the letter with the inconsistencies that Mr. McIntire generated. He asked the Chief if he had requested Mr. McIntire to write that letter. The Chief indicated that he had requested Mr. McIntire to do this through his sergeant. The Chief indicated he thought it was just a clarification of a fact from the recertification from Belmont. The Chief indicated he was not given any indication that there was going to be an impending hearing or that it was coming to this magnitude. He stated he had never received a call from the Director directly until today. The Chief indicated he came back from two weeks vacation to view the letter that Jim McIntire received. The

Chief takes full responsibility for the way this letter got written because he had thought it was just a quick clarification of wording and had he realized the seriousness of the matter he would have instructed Mr. McIntire to verify the dates in the letter since it is impossible to remember dates with accuracy from a decade ago.

Attorney Leonard made his closing argument. He believes that Council needs to focus in on the definition of employee and on the word “serving” under administrative rule Pol 101.20 “means a person serving as a police officer.” This is language in which the Council needs to determine the contours of the language. Attorney Leonard suggests that it is not black and white. This is language the Council needs to interpret. It is language the Council has the authority to interpret as the governing body of these administrative rules. It is the Council’s determination and interpretation of these rules that operate. There is no reason why it can’t and it needs to be made on an individual basis. Things are not so black and white and this is a prime case of that. Looking at your own administrative rules determine the definition of employee and what serving as a police officer means. The Council heard both chiefs testify about this inactive status. Did they send a form down to this Council? No, they did not. Does that end the analysis or the discussion. It shouldn’t end the discussion or the analysis of this matter. Jim McIntire doesn’t bear the brunt of the fact that the department didn’t submit a particular form identifying his status as inactive. It is not his obligation to do it. He satisfied his obligation as an employee when he went to his employer. This is my personal situation; this is what I need; do not schedule me for work. Both departments responded and said we will not; both chiefs testified that they understood his status as inactive. In fact, he never returned to Gilmanton. And after he had the conversation when he went on inactive status, it was almost one year later before he worked for Northfield again. What is that status? What is he during that time period? This Council needs to focus on its own definitions. Was he employed in law enforcement? Was he serving as a police officer when he was working 0 hours; no shifts, when both departments classified him as inactive, what does that mean. These rules by the Council suggest and dictate that the hiring authority makes an initial determination as to the candidate’s qualification and if there are problems with that relationship that’s larger than Jim McIntire and he shouldn’t be penalized because of those larger issues. The Council had both Belmont and Bow make that determination. They were the hiring authorities. They operated properly under their responsibilities. Chief Jaran indicated he takes that responsibility very seriously. He did that. He understood Jim McIntire’s background as inactive at that time. That’s the process; the hiring authority makes the initial determination into their background. They certify and that’s what happened here. Both those hiring authorities, Belmont and Bow, made that initial determination that Jim McIntire was inactive. If the Council wants to make statements beyond that then Jim McIntire is not the case to make that. The Council needs to focus on the language of the rule and the specifics of Jim McIntire’s case.

There was a question earlier about just cause. There is a just cause exception here. Life isn’t black and white. You don’t throw away a police officer that every single department says we want him back. It’s unanimous. This guy’s a great cop. There is a just cause exception under 402.02 (e) which says “the Council shall not order suspension or revocation of a certification as above if it finds just cause.” (Subparagraph f) examples of just cause: “the suspension or revocation would not have a rehabilitative value or promote legitimate public interest.” “If Jim McIntire is not the poster boy for that requirement I can’t think of another case that is.” What is the rehabilitative value? There is none. What is the legitimate public interest? This guy has voluntarily disclosed

honestly and truthfully for the last decade on this issue every time he has gone under investigation and polygraph testing. It hasn't even been an issue for 10 years. There is even an ambiguity about his work status. The Council has an ambiguity. The Chief at Northfield and Sergeant at Gilmanton did not; they understood he was inactive. The same determination was arrived at by Chief Jaran. That 's how these hiring authorities were able to hire Mr. McIntire and put him out on the street as a police officer.

If the Council were to reconsider Mr. McIntire's request for PT&E and grant that, then the Council would be able to consider his certification under the just cause clause. Attorney Leonard indicated that they are not asking for an exception that these are the Council rules and that they have the authority to review this case under the just cause rule. He has asked the Council to make an interpretation of their rules.

On a motion by Commissioner Wrenn, seconded by Sheriff Carr to take the matter of James McIntire's PT&E and request for certification under advisement, the Council unanimously voted to take the matter under advisement.

Both sides submitted Findings of Fact and Rulings of Law.

The Council set a Special meeting to deliberate this matter on Tuesday, March 14, 2006, at 10 a.m. in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire. The Director will contact Attorney Leonard to advise him of this matter.

### **Nonpublic Hearing – Donald Bullock Department of Corrections**

Chairman Prozzo read and reviewed Council protocol with Donald Bullock. He advised Mr. Bullock that he could be represented by an attorney and asked if he wished the hearing to be heard in public or nonpublic session. Mr. Bullock had his attorney, Eric Wilson, present and requested that the hearing be heard in nonpublic session. Commissioner Wrenn recused himself from the hearing process.

Following a motion made by Sheriff Carr, seconded by Chief Morency, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 11:45 a.m.

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

Sheriff Carr then made a motion, seconded by Chief Morency, which carried unanimously by the Council on a roll-call vote to exit the nonpublic session at 12:15 a.m.

Upon return to public session, on a motion by Sheriff Carr, seconded by Deputy Commissioner Annal, the Council unanimously voted to take the matter of Donald Bullock under advisement.

**Decertification of Thomas Lemire, Rindge Police Department,** for violation of 402.02 (a) (2) as a result of his conviction for Motor Vehicle Homicide in Winchendon, Massachusetts, October 24, 2005. There was a negotiated resignation from the Rindge Police Department on October 1, 2005. Mr. Lemire was sentenced to 2-1/2 years in the House of Corrections; 1-1/2 years suspended; 6 years probation, no alcohol or drugs and submission to a substance abuse evaluation. Staff exhibits were:

- Exhibit A - Form A, dated July 10, 1995
- Exhibit B - Full-Time Certification, dated March 29, 1996
- Exhibit C - Form G, dated July 6, 2004
- Exhibit D - Form B, dated November 4, 2005
- Exhibit E - Packet from the Winchendon District Court

***Synopsis:*** On June 30, 2004, Officer Richard Oinonen of the Winchendon, Massachusetts Police Department responded to a motor vehicle accident and observed a blue Chevy Corvette against a large tree in the parking lot of Royal Auto Sales in Winchendon. The driver's side part of the Corvette was resting against the tree and the rear of the Corvette was resting against the telephone pole. Paramedics and officers from another town were already on the scene. One of the paramedics asked for a life flight. Officer Oinonen observed the passenger to be unconscious and gasping for breath from a large fracture in his skull. He was later identified as Richard Soucy. Officer Oinonen approached the driver, Thomas Lemire, who was known to the officer. Mr. Lemire was not wearing a shirt and was covered in blood with a gash in his head and numerous cuts and abrasions on his body. When he was asked if he was involved in the crash, Mr. Lemire said, "I f...ed up big time." When Mr. Lemire spoke to Officer Oinonen, the officer could detect a strong odor of alcohol coming from his breath and he observed that Mr. Lemire's eyes were bloodshot and glassy and that Mr. Lemire was unsteady on his feet. Mr. Lemire refused the Field Sobriety Test and was placed under arrest at the scene and was transported to the hospital. At the hospital he was advised of his Miranda, invoked his right, and he also refused a breath test and blood test. The owner of the Corvette told another officer that he was at a local tavern playing pool with Mr. Lemire and Mr. Lemire had asked several times to take the Corvette for a ride. He said Mr. Lemire had had only one beer in his presence. The bartender confirmed that Mr. Lemire had finished one beer and ordered another but left it at the bar when he left to drive the Corvette. Mr. Lemire did not appear to be drunk to him. Of seven witnesses interviewed only two saw the accident happen. They saw the Corvette driving fast, heard the squealing tires, saw the vehicle swerve out of control, hit the tree and the rear end of the vehicle go up in the air. Other witnesses who heard the accident responded to see if everyone was ok. They saw Mr. Lemire trying to pull his friend from the car. He smelled like alcohol and said both of them had been drinking. Accident reconstruction indicated the speed of the Corvette was 91 miles an hour at the time of the accident. Mr. Soucy died of his injuries. PSTC heard no dissent by December 2, 2005 and received the return receipt on February 9<sup>th</sup> signed by Jill Lemire.

On a motion by Commissioner Wrenn, seconded by Chief Russell, the Council unanimously voted to decertify Thomas Lemire for violation of 402.02 (a) (2) as a result of his conviction for Motor Vehicle Homicide in Winchendon, Massachusetts.

***Prior Training and Experience Requests***



**Full-Time****Daniel W. Bricker, Lee Police Department**

After the Director outlined **Daniel Bricker's** request for prior training and experience, on a motion by Sheriff Carr to accept staff recommendation, seconded by Chief Dodge, the Council voted unanimously to grant Mr. Bricker full-time certification based upon successful completion of the medical, PT test, NH Law Package at the Full-Time Academy, and CPR/First Aid, if lapsed. **The Director then outlined Officer Bricker's request for an extension through the 141<sup>st</sup> Academy to complete the aforementioned requirements. On a motion by Commissioner Wrenn, seconded by Chief Dodge, the Council then voted unanimously to grant Daniel Bricker the extension through the 141<sup>st</sup> Academy.**

**Michelle L Kapica, Keene Police Department**

After the Director outlined **Michelle Kapica's** request for prior training and experience, on a motion by Sheriff Carr to accept staff recommendation, seconded by Chief Dodge, the Council voted unanimously to grant Ms. Kapica full-time certification based upon successful completion of the medical, PT test, NH Law Package at the Full-Time Academy, and CPR/First Aid, if lapsed; Additionally the Council voted that Ms. Kapica must successfully complete the high risk motor vehicle stops and simunitions courses due to her limited patrol and law enforcement experience.

**Part-Time****Robert J. Johnson, Merrimack County Sheriff's Office.**

After the Director outlined **Robert Johnson's** request for prior training and experience, on a motion by Chief Dodge, seconded by Chief Morency to accept staff recommendation, the Council voted unanimously to grant part-time certification to Robert Johnson based upon his successful completion of the entire part-time school.

**Department of Corrections**

**Joni O'Brien.** The Director outlined the PT&E request of Joni O'Brien. She was hired as a civilian and went to the Corrections Academy as civilian. She is now going to a sworn position as a PPO. Staff recommendation is that she attend the following classes in order to receive her certification: Defensive Tactics Training and Qualification, Firearms Safety Class, Firearms Qualification, Ground Defense, Introduction to Defensive Tactics, Practical Security and Safeguards, PREA/Sexual Misconduct, and Transportation. On a motion by Sheriff Carr seconded by Chief Russell, the Council voted unanimously, with Commissioner Wrenn abstaining, to accept the staff recommendation and grant DOC certification to Joni O'Brien based upon successful completion of the classes outlined above and pass PT in the 35 percentile.

**Richard Lee.** The Director outlined the PT&E request of Richard Lee. He was hired as a civilian

and went to the Corrections Academy as civilian. He is now going to a sworn position as a CO. Staff recommendation is that he attend the following classes in order to receive his certification: Anatomy of a Set Up, Cell Extraction Training, Defensive Tactics Training and Qualification, Drug Identification, Emergency Management, Firearms Safety Class, Firearms Qualification, Ground Defense, Hostage/Riot Class, Inmate Movement and Counts, Introduction to Defensive Tactics, Practical Security and Safeguards, PREA/Sexual Misconduct, Sexual Harassment and Suicide Prevention. On a motion by Sheriff Carr seconded by Chief Russell, the Council voted unanimously, with Commissioner Wrenn abstaining, to accept the staff recommendation and grant DOC certification to Richard Lee based upon successful completion of the classes outlined above and pass PT in the 35 percentile.

### ***Requests for Extensions***

#### **Full-Time**

##### **Robert Lee, Newbury Police Department**

After the Director outlined the reason for the request for extension through the 139<sup>th</sup> Academy, on a motion by Sheriff Carr, seconded by Attorney General Ayotte, the Council voted unanimously to grant the extension through the 139<sup>th</sup> Full-Time Academy to Chief Robert Lee, Newbury Police Department.

##### **Gerald S. Lewis, Windham Police Department**

After the Director outlined the reason for the request for extension through the 139<sup>th</sup> Academy, on a motion by Sheriff Carr, seconded by Attorney General Ayotte, the Council voted unanimously to grant the extension through the 139<sup>th</sup> Full-Time Academy to Chief Gerald S. Lewis, Windham Police Department.

##### **Sean Harrington, Rockingham County Sheriff's Department**

After the Director outlined the reason for the request for extension through the 140<sup>th</sup> Academy, on a motion by Sheriff Carr, seconded by Attorney General Ayotte, the Council voted unanimously to grant the extension through the 140<sup>th</sup> Full-Time Academy to Officer Sean Harrington, Rockingham County Sheriff's Department.

##### **Gary C. O'Brien, Seabrook Police Department**

After the Director outlined the reason for the request for extension, on a motion by Sheriff Carr, seconded by Attorney General Ayotte, the Council voted unanimously to grant the extension for Officer Gary O'Brien, Seabrook Police Department to complete the PT at the Full-Time Academy due to an ankle injury at the 138<sup>th</sup> Academy.

### ***Specialized Training Grants***

#### **In State Training Grant Request**

**Seacoast Emergency Response Team – SWAT Training**

The Director outlined the in-state training grant request from Lieutenant Fred Hoysradt on behalf of the Seacoast Emergency Response Team. Their request was for assistance in funding the upcoming SWAT training for NH Officers in March. On a motion by Chief Russell, seconded by Sheriff Carr, the Council unanimously denied this request based on the lack of available funds.

**Command Training Programs**

**Pelham Police Department.** The Director outlined the request of the Pelham Police Department to send **Sergeant Michael Ogiba** to the Massachusetts Police Leadership Institute's Program—"Training Police Managers to Manage Change" at University of Mass at Lowell, MA from April 10 – 21, 2006 at a cost of \$1,000. On a motion by Commissioner Wrenn, seconded by Chief Russell, the Council unanimously approved the grant request of the Pelham Police Department for Sergeant Ogiba.

**Exeter Police Department.** The Director outlined the request of the Exeter Police Department to send **Sergeant William Shupe** to Roger Williams University's Command Training Series First Line Supervisor's Course in Portsmouth, Rhode Island from April 16-28, 2006 at a cost of \$1,000. On a motion by Commissioner Wrenn, seconded by Chief Russell, the Council unanimously approved the grant request of the Exeter Police Department for Sergeant Shupe.

**Gilford Police Department.** The Director outlined the request of the Gilford Police Department to send **Sergeant Dana C. Farley** to Roger Williams University's Command Training Series First Line Supervisor's Course in Portsmouth, Rhode Island from April 16 - 28, 2006 at a cost of \$1,000. On a motion by Commissioner Wrenn, seconded by Chief Russell, the Council unanimously approved the grant request of the Gilford Police Department for Sergeant Farley.

**Goffstown Police Department.** The Director outlined the request of the Goffstown Police Department to send **Sergeant Robert Browne** to the Massachusetts Police Leadership Institute's mid to senior management development program at the University of Mass campus at Lowell, MA from April 10 – 21, 2006, at a cost of \$1,000. On a motion by Commissioner Wrenn, seconded by Chief Russell, the Council unanimously approved the grant request of the Goffstown Police Department for Sergeant Browne.

**Portsmouth Police Department.** The Director outlined the request of the Portsmouth Police Department to send **Deputy Chief Len DiSesa** to the Massachusetts Police Leadership Institute's mid to senior management development program at the University of Mass campus at Lowell, MA from April 10 – 21, 2006, at a cost of \$1,000. On a motion by Commissioner Wrenn, seconded by Chief Russell, the Council unanimously approved the grant request of the Portsmouth Police Department for Deputy Chief DiSesa.

**Other Training**

**Antrim Police Department.** The Director outlined the request of the Antrim Police Department to send **Officer Matthew Elliot** to the Investigative Training Eyewitness Evidence and Death

Investigation program presented by Carroll Consulting and Training to be held in Concord, NH from May 18 – 19, 2006 at a cost of \$176.00. On a motion by Chief Morency, seconded by Sheriff Carr, the Council unanimously denied the grant request of the Antrim Police Department for Officer Elliot based upon the lack of available funds.

**Hopkinton Police Department.** The Director outlined the request of the Hopkinton Police Department to send **Sergeant William Simpson** to Remington Armorers School in Ilion, NY to learn the appropriate method for maintaining the department's Remington 870 shotguns. The program was to be held from May 22-26, 2006 at a cost of \$650.00. On a motion by Chief Morency, seconded by Sheriff Carr, the Council unanimously denied the grant request of the Hopkinton Police Department for Sergeant Simpson based upon the lack of available funds.

**Seabrook Police Department.** The Director outlined the request of the Seabrook Police Department to send Patrolman David Buccheri and Prosecutor Scott T. Mendes to the IPTM, Medical Foundations of Visual Systems Testing for DRE's and Prosecutors at the University of North Florida, Jacksonville, Florida from April 16-19, 2006, at a cost of \$1,547.04. On a motion by Chief Morency, seconded by Sheriff Carr, the Council unanimously denied the grant request of the Seabrook Police Department for Patrolman Buccheri and Prosecutor Mendes based upon the lack of available funds.

**Kingston Police Department.** The Director outlined the request of the Kingston Police Department to send Patrolman John Ventura and Captain James Champion to Sniper Training at Crosshairs Training Academy in Keene, New Hampshire from May 8 – 12, 2006 at a cost of \$1,076.00. On a motion by Chief Morency, seconded by Sheriff Carr, the Council unanimously denied the grant request of the Kingston Police Department for Officer Ventura and Captain Champion based upon the lack of available funds.

**Durham Police Department.** The Director outlined the request of the Durham Police Department to send **Officer Holly Rouleau** to the National Empowering Women in Law Enforcement Conference in El Paso, Texas from April 3 – 7, 2006 at a cost of \$853.33. On a motion by Chief Morency, seconded by Sheriff Carr, the Council unanimously denied the grant request of the Durham Police Department for Officer Rouleau based upon the lack of available funds.

**Seacoast Emergency Response Team.**

The Director outlined the request of the **Seacoast Emergency Response Team** to send a group of officers to the NECNA/FBI Annual New England Crisis Negotiator's Seminar at the Sea Crest Resort in Falmouth, Massachusetts from April 24-26, 2006 at a total cost for all participants of \$1,928.00. On a motion by Chief Russell, seconded by Sheriff Carr, the Council unanimously denied the grant request for SERT based upon the lack of available funds.

The Council decided to transfer another \$5100 to the training grant funds account and earmarking the balance of the funds in that account to Command Training Programs as the priority.

*Other Business***Requests to Exceed the 1300-Hours Rule**

**Henniker Police Department.** The Director outlined the request of the Henniker Police Department requesting a waiver be granted to **Chief Timothy Russell** so that he may be permitted to work unlimited hours. On a motion by Commissioner Wrenn, seconded by Chief Dodge, with Chief Russell abstaining from the vote, Council granted Chief Russell the waiver of the 1300-hours rule and permission to work unlimited hours.

**Bradford Police Department.** The Director outlined the requests of the Bradford Police Department requesting waivers be granted to **Officers Glen L. Drewniak and Anthony J. Shepherd** so that they may be permitted to work unlimited hours. On a motion by Commissioner Wrenn, seconded by Chief Dodge, Council granted Officers Drewniak and Shepherd waivers of the 1300-hours rule and permission to work unlimited hours.

**Portsmouth Police Department.** The Director outlined the request of the Portsmouth Police Department requesting a waiver be granted to **Officer Kevin M. Semprini** so that he may be permitted to work unlimited hours. On a motion by Commissioner Wrenn, seconded by Chief Dodge, the Council granted Officer Semprini the waiver of the 1300-hours rule and permission to work unlimited hours.

**Grafton County Sheriff's Department.** The Director outlined the requests of the Grafton County Sheriff's Department requesting waivers be granted to the following officers: **Officer Michael G. Doucette, Officer Robert C. Dupuis, Jr., Officer Barbara D. Dutile, Officer Wayne H. Fortier, Officer Peter H. Giese, Officer Richard A. Greenwood, Sr., Officer Craig M. Jewett, Officer Dwight Marchetti, and Officer Keith D. Kidder** so that they may be permitted to work unlimited hours. On a motion by Commissioner Wrenn, seconded by Chief Dodge, the Council granted all the above listed Grafton officers waivers of the 1300-hours rule and permission to work unlimited hours.

**Fitness Testing Extensions**

**Concord Police Department.** The Director outlined the extension request of **Officer Katherine Moreira** who had been extended to December 31, 2005. She is requesting a further extension through June 30, 2006 as she has not been medically cleared. On a motion by Chief Russell, seconded by Chief Morency, the Council unanimously granted Officer Moreira an extension through June 30, 2006.

**New Hampshire State Police Department.** The Director outlined the extension request of **Officer Marcus Harring** who is requesting a military extension as he was called to active duty during October, 2005 and his obligation is for a term of up to three (3) years. On a motion by Chief Russell, seconded by Chief Morency, the Council unanimously granted Officer Harring an extension through June 30, 2006.

**3-Year Testing****Lack of Submission of Documentation for Continued Medical Extensions**

Cassandra Erickson approached the Council in regard to 16 individuals who have not responded to meeting the fitness testing requirements or provided documentation supporting why they have not done so. She asked the Council if they wanted her issue show cause orders. The Council suggested that she split the show cause orders between April and May Council Meetings.

**Nonpublic Session – Personnel Matter**

Director Keith Lohmann requested that the Council enter into a nonpublic session to discuss a personnel matter.

Following a motion made by Commissioner Wrenn, seconded by Chief Dodge, the Council voted unanimously on a roll-call vote to enter into a nonpublic session at 12:54 p.m.

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

Chief Dodge then made a motion, seconded by Chief Morency, which carried unanimously by the Council on a roll-call vote to exit the nonpublic session at 1:07 p.m.

***General Discussion***

Sheriff Prozzo handed out the Staff Survey materials to the Council members for their review with discussion to be held at the Retreat in March regarding the contents.

***Next Meeting Date/Adjournment***

There will be a special meeting at 10 a.m. on Tuesday, March 14, 2006, in the John D. Morton Conference Room to deliberate the McIntire case. The Council members have also decided to deliberate the Bullock case at this time.

The Council Retreat in March will be held at the Christmas Farm Inn in Jackson Village, New Hampshire. The dates of the retreat will be Monday, March 27 and Tuesday, March 28, 2006. The Monday planning meeting will begin at 10 a.m. sharp and the Tuesday business meeting will be held at 9:00 a.m. Both meetings will be held in the Conference Room at the Christmas Farm Inn in

Jackson Village, New Hampshire.

The Council unanimously voted to adjourn the meeting at 1:17 p.m. on a motion by Chief Dodge and seconded by Chief Morency.

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Chairman Michael L. Prozzo, Jr.