

Minutes

November 27, 2007

The 366th meeting of the NH Police Standards and Training Council was called to order at 9:05 a.m. by Vice Chairman William Wrenn, Commissioner of the New Hampshire Department of Corrections, in the John D. Morton conference room at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Chief Gregory C. Dodge, Epping Police Department; Chief Timothy Russell, Henniker Police Department; Sheriff Scott A. Carr, Carroll County Sheriff's Department; Associate Justice Stephen H. Roberts, Dover District Court; Associate Justice Norman E. Champagne, Manchester District Court; Colonel Frederick H. Booth, NH State Police; Vice Chancellor Charles Annal, designee of Chancellor Richard A. Gustafson of the Community College System of New Hampshire; Chief Michael J. Magnant, Portsmouth Police Department; Chief Peter Morency, Berlin Police Department; and, Deputy Attorney General Bud Fitch, designee of Attorney General Kelly Ayotte.

Members Absent: Sheriff Michael L. Prozzo, Jr. (Chairman), Sullivan County Sheriff's Office, was excused.

Staff Present: Director Donald L. Vittum, Assistant Director Robert B. Stafford, Jr., Investigative Paralegal Cassandra A. Erickson, Keith H. Lohmann, Lieutenant Brian Baxter, and Council Secretary Kathryn Day.

Guests Present: Chief Russell Timmons, Somersworth Police Department; from the Manchester Police Department, Chief John Jaskolka, Deputy of Administration Gary Simmons, and Sergeant Peter Favreau; and, Attorney Simon Brown.

Call to Order

In the absence of the Chairman, Vice Chairman William Wrenn called the meeting to order at 9:05 a.m.

Approval of Minutes

The Council unanimously approved by a voice vote the Minutes of October 23, 2007, following a motion made by Chief Russell and seconded by Chief Magnant.

Director's Report

The Director's written report, mailed under separate cover, was accepted as submitted. There were no questions or comments from the Council on the Director's report. In his remarks, Director Vittum raised the issue of the upcoming retreat planned for March 2008 and he requested the Council's recommendations for a location and asked the Council to put forth suggestions for discussion topics at the retreat, as well.

The Director commented that the staff has planned a brainstorming session as part of the event and that he will enter into negotiations with Charles Putnam and his associates to reach agreement on a reasonable cost for conducting this exercise. Currently, they are offering their services at a cost of \$20,000 for a one-day session and this figure is not acceptable. The purpose of the exercise will be to finalize a three-, five-, and ten-year plan that will include proposed rule changes, upgrades to the firing range, procurement of a generator system, expansion of the building, and curriculum changes (including increasing the length of the full-time academy from 12 to 14 weeks).

The Director participated in a similar program with the Attorney General's Office. Deputy AG Fitch briefly described the method and benefits of conducting a brainstorming session with the Charles Putnam consulting group. In the past, this has been used with success by the Drug Task Force, Crime Commission, and for strategic planning in the Department of Justice.

The Director noted that the Council needs to administer his annual performance review that is due in February 2008. Forms for this purpose will be distributed to each of the Council members so that they can comment on goals and objectives for the coming year and give their input concerning the Director's performance over the past year.

Previous and/or Unfinished Business

Retained Items

Deputy AG Fitch moved to table Item 4.a., "items that have been retained on the agenda from the March 2007 retreat . . .", and remove these from future agendas until the Director is prepared to present them. The motion, seconded by Chief Dodge, passed on a voice vote with the unanimous consent of the Council.

Rescission

The Council resumed the matter of William S. Phinney, pursuant to Pol 402.02(h) that was taken under advisement at the October 23, 2007, meeting that Mr. Phinney attended. The Director related to the Council a phone conversation he had with Bristol Police Chief John Clark on November 26. The Chief had voiced his strong support for Mr. Phinney's recertification and asked that this be expressed to the Council before they entered into nonpublic session to deliberate further on the case.

A motion by Sheriff Carr to enter into nonpublic session at 9:15 a.m. was seconded by Chief Dodge, and the Council voiced their unanimous approval in a roll call vote. At the

conclusion of deliberations, Sheriff Carr moved to seal the minutes of the nonpublic session and Chief Dodge moved to second. A voice vote by the Council was unanimous in the affirmative. Sheriff Carr further moved, and Chief Morency moved to second, to exit the nonpublic session at 9:24 a.m. Upon a roll call vote the Council approved the motion without exception.

Chief Russell moved that Council deny Mr. Phinney's request for recertification. This motion was seconded by Judge Champagne. With no further discussion, the Council upheld the motion on a unanimous voice vote.

PT&E (Full-Time) Request for Reconsideration

Officer Gary O'Brien, Somersworth Police Department.

Officer O'Brien has twice retaken the final fitness test for the Police Academy; on the first retake he missed by 15 seconds the qualifying time for the 1.5-mile run, and on the second retake he missed by nine seconds. All other requirements for passing the final fitness test have been met.

Captain Timmons appeared to ask the Council to give special consideration for another attempt by Officer O'Brien to pass the final fitness test. Officer O'Brien has been conditioning and testing since the second failed attempt and has had success with tests performed by the Somersworth Department. Officer O'Brien has expressed his willingness to attend the Full-Time Academy again, if that is what is required. Captain Timmons requested that the Council allow Officer O'Brien to repeat the test. The alternative request is for the Council to allow Officer O'Brien to be assigned to another academy.

Major Stafford confirmed that November 17 was the final day of the two-year period since the end of Officer O'Brien's attendance at a previous academy. Commissioner Wrenn suggested that the Council is limited by statute to uphold the two-year period for granting certification; Deputy Attorney General Fitch reviewed the Council rules and cited RSA 188-F:27: ***"...No such officer who lacks the education and training qualifications required by this section may have the temporary or probationary employment extended beyond 2 years."*** Captain Timmons pointed out that the Department had recently submitted paperwork that changed Officer O'Brien's status from full time to part time. How does this affect the two-year period?

Investigative Paralegal Cassandra Erickson asked Captain Timmons if Officer O'Brien was part-time certified. He is. Director Vittum spoke positively of Officer O'Brien's efforts and intentions to become full-time certified. The Director proposed that the Council allow Officer O'Brien another opportunity to pass the test by December 3 by making a declaratory ruling on the matter. Commissioner Wrenn suggested that Officer O'Brien's change in status to part time could institute a new two-year period and recommended that the Department submit a new Form A so that Officer O'Brien will be considered for an upcoming academy. The Director outlined the officer's employment history and how other issues affected the present situation; essentially, the difficulty originated with the Ossipee Police Department, not in Somersworth, and was not something under Officer O'Brien's control. Also a factor is the injury that Officer O'Brien sustained during the end of the 138th Part-Time Academy session that prohibited

him from passing the final run

Deputy Attorney General Fitch raised a question about the ongoing three-year fitness test. How does this affect Officer O'Brien's part-time status? The Director explained that a part-time certified officer has three years from the day he is hired as part-time. Since Somersworth changed Officer O'Brien's status to part-time less than three months ago and he is currently part-time certified, Commissioner Wrenn felt that there was no issue for the Council to act on at this time. The Council's final recommendation was for Officer O'Brien to return with a new request for consideration of prior training and experience once he has successfully completed all the physical testing requirements and to be mindful in the interim not to violate the 1,300-hour rule governing part-time status.

New Business

Eligibility Hearing

Officer Christopher Batista, Lempster Police Department consideration under Pol 301.05(g)(16) (Pages 17-18)

In the matter of the eligibility of Officer Christopher Batista of the Lempster Police Department, the Council recognized Attorney Simon Brown to present the facts of the case. Vice Chairman Wrenn referenced a letter from Officer Batista dated November 7, 2007, distributed at the meeting today.

Attorney Brown, who was retained to prosecute the Batista decertification matter, stated that the letter expresses Officer Batista's intention to voluntarily relinquish his full-time certification. Attorney Brown stated that Officer Batista had voiced his intention that he will not seek employment in law enforcement in New Hampshire in the future; however, if he does return to New Hampshire and seek recertification, this entire matter would be revived and an eligibility hearing before the Council would be required.

Judge Roberts moved that the Council accept Officer Batista's voluntary surrender of his certification. Judge Roberts asked for clarification from Attorney Brown on what information needs to be communicated to Officer Batista concerning a future request for recertification. Attorney Brown stated that the November 7 letter was in fact a response to a letter from Attorney Brown which made clear that if Officer Batista were to seek certification in the future that he would need to appear before the Council. Whether he should receive another letter informing him of the Council's official action is at the discretion of the Council.

Judge Roberts amended his motion to include the stipulation that any attempt to return to New Hampshire law enforcement would require Council action. Deputy AG Fitch posed a procedural question: What happens now if (Batista) tries to go into law enforcement in another state? Would they make an inquiry into his background (in New Hampshire)? Attorney Brown replied that some states do and some states don't; however, the fact that (Batista) voluntarily relinquished his certification would be put into a data base that would be available to law enforcement nationwide. Chief Russell interjected that, to his knowledge, approximately half of the fifty States were participating in that national data base, so it wouldn't necessarily mean that the information would be available to any state.

Justice Roberts' amended motion, seconded by Chief Morency, carried with a unanimous voice vote.

Decertification

Kyle Metcalf, formerly of NH Liquor Enforcement, under Pol 402.02(a)(4)

Mr. Lohmann stated that Mr. Metcalf has requested to continue the matter until the meeting of December 18 to allow more time to gather witnesses. There was no objection to granting the continuance, but the date will be left open until the matter can be accommodated at a future meeting. It is too soon to know if there will be sufficient time to include the Metcalf matter on the agenda for December 18. Legal counsel has not been engaged to prosecute this case.

Deputy Attorney General Fitch moved that the Metcalf matter be continued until a scheduled meeting date that will allow adequate time. Judge Roberts seconded the motion and it carried on the unanimous voice vote of the Council.

CONSENT CALENDAR

The Council unanimously approved the following **PT&E Requests**:

Full-Time Certification

Officer Juan Martinez, University of New Hampshire (part-time certified 11/3/07; hired 9/10/07) requesting consideration for full-time certification. Certification will be granted upon successful completion of the medical exam, fitness test, the law package of the Full-Time Academy, and First Aid/CPR certification, if lapsed

Probationary Trooper John R. Bishop, New Hampshire State Police
Certification will be granted upon successful completion of the medical exam, fitness test, the law package of the Full-Time Academy, and First Aid/CPR certification, if lapsed.

Probationary Trooper Vincent J. Greico, New Hampshire State Police
Certification will be granted upon successful completion of the medical exam, fitness test, the law package of the Full-Time Academy, and First Aid/CPR certification, if lapsed.

Officer John F. Schulte, Jr., Deering Police Department Certification will be granted upon successful completion of the medical exam, fitness test, the law package of the Full-Time Academy, and First Aid/CPR certification, if lapsed.

Officer Creig W. Doyle, Plymouth State University Police Department
Certification will be granted upon successful completion of the medical exam, fitness test, the law package of the Full-Time Academy, and First Aid/CPR certification, if lapsed.

Part-Time Certification

Officer Joseph P. Pivrotto, Groton Police Department Part-time certification with unlimited hours will be granted upon successful completion of the medical exam, fitness test, the law package of the Full-Time Academy, and First Aid/CPR certification, if lapsed.

The Council voted unanimously to grant the following **Requests for Extension:**

Full-Time Police Officers

Officer Michael Needham, Jr., Temple-Greenville Police Department. Hired April 9, 2007, part-time certified on November 5, 2005. The Council approved extension to the 145th Session of the Full-Time Academy - 01/07/08-03/28/08 (fitness test 12/17/07)

Officer Michael J. Abel, Wilton Police Department. Hired August 27, 2007, part-time certified May 7, 2005. The Council approved extension to the 146th Session of the Full-Time Academy - 04/07/08-06/27/08 (fitness test 3/18/08)

Part-Time Police Officer

Marine Patrol Officer Ryan J. Fucella, NH Marine Patrol Bureau (hired 5/18/07). Requesting extension to the Requesting extension to the 254th Session of the Part-Time Academy.

The Council considered and approved the following **Training Grant Requests** as submitted:

University of New Hampshire request to send Sergeant Brandon Hinton to the Command Training Series, First-Line Supervisor Course at Roger Williams University, Portsmouth, Rhode Island, for the two-week session beginning January 27, 2008. Amount: \$1,000.

Antrim Police Department request to send Sergeant Matthew Elliott to the Command Training Series, First-Line Supervisor Course at Roger Williams University, Portsmouth, Rhode Island, for the two-week session beginning January 27, 2008. Amount: \$1,000.

Berlin Police Department request to send Lead Investigator Richard D. Plourde and Lieutenant Karl Nelson to the Command Training Series, First-Line Supervisor Course at Roger Williams University, Portsmouth, Rhode Island, for the two-week session beginning January 27, 2008. Amount: \$2,000.

The Council amended and then approved:

Claremont Police Department request to send Captain Mark T. Chase to the five-day Boston Police Command Institute for Law Enforcement Executives at Boston Police Headquarters, December 10-14, limiting the amount to a maximum of \$1,000.

Upon a motion made by Chief Magnant and seconded by Deputy Attorney General Fitch, the amended Consent Calendar was adopted without opposition on a voice vote, with Chief Morency abstaining.

Ongoing Three-Year Fitness Testing

Show Cause Hearing

Corporal Joseph Caron, Colebrook Police Department under RSA 188:F:27, III-d & III-g (CONTINUED FROM OCTOBER 23, 2007, COUNCIL MEETING)

Mr. Lohmann stated that Mr. Caron, after being injured in Iraq, required several postponements following his return to the USA due to various medical issues. Since this matter was continued from October, Mr. Caron has successfully passed the three-year fitness test and no longer requires a hearing before the Council.

OIC Stephen Medeiros, Piermont Police Department under RSA 188:F:27, III-d & III-f (CONTINUED FROM AUGUST 28, 2007, COUNCIL MEETING)

Mr. Lohmann stated that the Piermont Board of Selectmen had informed him that Mr. Medeiros is no longer employed with the Piermont Police Department. No Form B has been received yet, but given that Mr. Medeiros is absent from today's meeting there is no need for this matter to go forward.

Other New Business

Police Standards and Training response re: Department of Administrative Services 2006 follow-up to LBA 2005 Audit.

The Director informed the Council that Police Standards and Training, along with other agencies, may be required to address the full House Fiscal Committee to discuss the audit, but this has not yet been made official. The concerns of the audit have been adequately addressed in the Director's response; one of the major concerns that remain for the agency is the in-house auditing system; the Director is working to refine that procedure and document it. There were no questions or comments from the Council.

Rules Revision(s) for approval

Mr. Lohmann recommended that the original language contained in Pol 301.06 remain unchanged. Chief Morency moved to adopt the proposed change to Pol 101.14. Colonel Booth seconded the motion and the Council confirmed it with a unanimous voice vote.

Re-adoption of the Rules to approve current rules revisions

Mr. Lohmann stated that most of the changes in the rules revisions were made to conform with RSA 541-A or the Justice Rules for things that have not been included in the Council Rules in the past. Other housekeeping issues concerning statutory changes (forest rangers, DOJ investigators) were not substantive in nature. The other change, under 301.05 Background Investigation, language was added to (g) to say, "*The hiring authority shall evaluate ... nor shall the council certify..*," so that it clarifies that the Council is authorized to act under 301.05, as well as 402.02.

Deputy Attorney General Fitch reviewed specific revisions with the Council and offered the following comments:

- Pol 205.02 Commencement of Adjudicative Proceeding This does not appear to give the Council the ability to commence an adjudicative proceeding on its own; it requires the Director to make a determination before that could happen. This is fine as a policy choice, but most administrative boards that have a director/administrative board who can initiate an adjudicative proceeding also give themselves the ability to do that on their own motion. **Recommended action would be to add language "...the council, on its own motion, the director or his/her designee ..."**

The Director agreed that such oversight would be appropriate. Deputy Attorney General Fitch moved to add the language to Pol 205.02 that would give the Council the authority on its own motion to commence an adjudicative proceeding. Judge Roberts seconded this motion and discussion followed. On a voice vote, the motion carried without opposition.

- Pol 206.13(d): The placement of this item, "The director, or his or her designee, shall review the evidence to determine if there is probable cause to bring a matter before the council," is not correct; it appears under a section that concerns hearings. **Recommendation: If this statement needs to be included in the rules, it should be moved.**

Deputy Attorney General Fitch moved that (d) be removed from Pol 206.13 and relocated by the legal staff to a more appropriate section. The motion, seconded by Chief Morency, was approved by the Council on a unanimous voice vote.

- Pol 206.18: The language is not clear. **Recommended action is for the legal staff to write new language that makes the procedure steps for modifying or quashing a subpoena clearer.**

Deputy Attorney General Fitch moved that the legal staff rewrite the section to establish a clearer process. Colonel Booth moved to second and the motion carried on a voice vote.

- Definition of hiring authority needs to be included in Pol 202. **Recommended action is to create a definition for hiring authority that explicitly designates an individual or individuals by title or distinction. One of two reasonable options would work: Define hiring authority as the chief law enforcement officer for the agency. The other choice would be to say the hiring authority is the chief law enforcement officer, unless the hiring authority is a local governing body.**

Colonel Booth supported including a provision for when a chief law enforcement officer for an agency is being appointed; the hiring authority (who submits Form A) in such circumstances should be clearly defined. Deputy Attorney General Fitch recommended defining hiring authority in such a case as an entity other than the chief law enforcement

officer. Deputy Attorney General Fitch moved that the legal staff create an adequate definition of hiring authority. Colonel Booth moved to second and the motion carried on a voice vote.

The Council granted the legal department approval make all the recommended changes and to file the amended rules with the Legislative Rules Committee with no further delay.

General

Recommended Corrections Academy Changes

Director Vittum commended Lieutenant Baxter and Captain Noyes for managing the corrections academy with great success in the past and mentioned they are currently preparing for future changes intended to make corrections mirror what is done with the police academies. For example, firearms training will be included again in the academy session.

Lieutenant Baxter presented the plan to reintegrate firearms training into the academy session. He explained that firearms was removed from the fifth or sixth week of the corrections academy about two years ago and was placed before the start of the academy. The intention was to avoid the issues caused when an officer in training cannot meet the required skill level and fails the firearms test; essentially, if an officer failed firearms and/or failed the entrance fitness test, they would not be allowed to attend the academy. Reconsideration of this change rose out of the need to develop teamwork and other skill sets like verbal communications and defensive tactics first, so that firearms training would be more relevant and the use of lethal force more appropriately presented as a last resort, not the first option.

Another change will restructure the first of the three phases of the corrections academy to include material that should be presented to civilians and corrections officers together. Also, two instructors have asked that additional time be given for Health Services and for Employee Health so that each class would be lengthened by 30 minutes in order to cover all the material that needs to be presented.

Chief Dodge moved that the Council approve the proposed changes and Chief Magnant seconded the motion. The motion carried with a unanimous voice vote of the Council.

The Director commended Lieutenant Baxter and Sergeant Valerie Brooks for their dedication and time given to conducting the corrections academy.

Other Business

Manchester Requests Exception for the 145th Full-Time Academy

The Chairman introduced representatives of the Manchester Police Department to express their concerns regarding newly hired officers that had been deferred to a future academy due to enforcing the cap of 60 recruits in the Full-Time Academy. Chief John Jaskolka thanked the Council for allowing the Manchester Police Department to present their

concerns with the cap. He explained that Manchester faced a unique set of circumstances because of the size of the department and its hiring procedures.

Further, he stated that of the 68 officers hired for the Manchester PD since June 2004, 48 were hired within the last 16 months; this represents a large turnover, along with the recent directive by the City of Manchester to increase the number of officers on the force. Past practice has been for the Department to work closely with Police Standards and Training staff member Nancy Otis to keep abreast of what slots were available and to advise and consult on the current status of candidates for those openings; at the current time, there is a need for seven slots for those candidates who have completed the hiring process. In the past, the Manchester Police Department has always been able to send "around ten" officers to each session of the academy. Because of the lengthy and very detailed screening process that the Department employs, it is difficult at times to submit the forms needed to finalize attendance at the academy before the openings are filled on a first-come/first-served basis. At the same time, they acknowledge the process is conducted with fairness to all departments and they do not expect to receive special consideration.

The Chief said that since September when they first contacted the academy and asked for the slots communication was ongoing between the Department's training staff and the Police Standards and Training Council staff, and the Chief had spoken with the Director, as well. Chief Jaskolka described the recent notification that slots were filled for the next academy as "a total surprise" to the Department, because they "had never been put into that situation before." Nine officers had been hired just the day before; there are currently seven officers waiting to attend the academy. The Chief then introduced Sergeant Favreau.

As Training Director it is Sergeant Favreau's job to facilitate the hiring process and ensure that officers are enrolled in the academy, and he assumes his share of the responsibility for the current difficulty. He noted that he has always received excellent cooperation from the Police Standards and Training Council staff and this has not changed; what has changed is the cap on the number of recruits. Although the Department had anticipated that the cap would be happening, this is the first time that the cap was strictly enforced; but, the communications and planning activities had happened as they had before, so Sergeant Favreau did not sense that this time things would not work out as they did previously.

The major difficulty facing the Department is the large number of applicants they must recruit, interview, test, and complete background checks for before a candidate reaches the point where they can be considered to attend the academy. Again, there is also a large turnover rate; it is expected that Manchester will need to send eight or ten candidates to each academy for some time to come before they reach their full complement of officers for the Department. If the seven new hires currently waiting are pushed out to the October academy, the Department will fall even farther behind and, conceivably, never "catch up."

At this time the Manchester Police Department is looking for advice and direction on how to achieve a better outcome in the future and for some accommodation for the seven candidates in the current academy.

Commissioner Wrenn acknowledged that the cap has been discussed for some time. Recent academies have had up to 80 officers and this has been of great concern, because it stretches the resources at Police Standards and Training Council “to the max.” He agreed that it is difficult (for Manchester) to find sufficiently qualified candidates. Commissioner Wrenn explained that there had been occasions where slots were held open in anticipation of other departments sending candidates, but as the deadline to submit paperwork approached the “reservations” were withdrawn. The effect on the scheduling of the academy and on other departments who had to postpone sending candidates became very difficult to manage.

Judge Champagne asked Director Vittum to propose a solution to Manchester’s current dilemma. The Director responded that the answer would be to relax the cap on the next academy and allow the seven Manchester officers to attend the academy and accommodate them the best we can. The Director stated that the facility had beds for only 60 males and 14 females. One of the variables that affect the final headcount is performance on the physical agility test. In fact, one prospective recruit has failed the test and will therefore not be continuing on to attend the academy. Another consideration is the quality and logistics of training in high-liability areas, namely hands-on exercises (i.e., driving, firearms training, etc.); adjustments will be needed in order to accommodate more than 60 recruits, and these will be made if the Council chooses to relax the cap for the next academy.

Deputy Attorney General Fitch referenced the minutes of the Council meeting in July 2007, when the decision to cap the academy at 60 was finalized. At the time it was characterized as an interim decision and he recollected that there was a consensus to work on a three-/five-/ten-year plan to develop a sense of how to accommodate the need to train more police officers. AG Fitch agreed with the concept of 60 being the optimum number based on the recommendations of Police Standards and Training staff; however, he could empathize with the situation at the Manchester PD or any other large police department and felt that, until there was a long-term plan in place, periodic accommodations would be necessary.

Judge Roberts confirmed with the Director that the cap for the current academy has already been exceeded and that the current session has received applications for 76 to date, including the seven officers from Manchester. The Director stressed the importance of fairness to all departments, large or small, and that Police Standards and Training serves the entire state. Great care needs to be taken not to show favoritism to any department – “reserving slots” is not an acceptable practice and will be discontinued.

The Director was not able to predict exactly how the quality of training would be affected by the larger academy size. Staff will be instructed to ensure that the high-liability areas are properly adjusted. Other issues arise with the simple logistics of providing break times, meal times, and conducting other group activities; everything takes more time with more recruits. Additional staff would need to be present at night to facilitate the required

discipline and behavior. The Director emphasized that any issues that arise from the agreed upon limitation of 60 should be appropriately addressed by the Council, though, and not unilaterally decided by the Director, and the Director and staff will do what is required to carry out the decision of the Council.

Colonel Booth urged the Council to consider the long-term issues for Manchester and felt that some consideration be given to adjusting the cap for the next academy; but, he said, the bigger question for Manchester is: What are they going to change between now and April to ensure that the same issues come up again before the start of the next academy? There cannot be a guarantee of a certain number of slots to the larger departments every academy. The process needs to be fair to all agencies, large and small; the fairest practice is to fill slots on a first-come/first-served basis.

Sergeant Favreau suggested that the only alternative to setting aside a certain number of slots in each academy would be more communication with Police Standards and Training Council staff as the number gets closer and closer to the cap of 60. With more frequent updates, there would be more control over the hiring process; as soon as the Department is made aware that the academy is at capacity, the hiring process will be halted.

Colonel Booth asked Chief Jaskolka to state exactly how many officers must attend the next academy. The Chief was adamant that the Department could not hire an officer and then put him out on the street prior to their certification. There is a need for additional supervisors already; for 25 units on the street, there are currently only one or two street supervisors and this is not adequate to provide the supervision that would be required for uncertified officers. Colonel Booth insisted that the limit for expanding the cap be strictly defined; how many beyond 60 will be enough?

Chief Morency was concerned that, with the 10 percent turnover rate among sworn officers in the state, capping the academy at 60 would not meet the future needs of the State should that turnover rate continue. The Director responded that a proposal to run four academies per year, rather than only three, will be included in the three-/five-/ten-year plan.

Vice Chancellor Annal inquired how many departments other than Manchester did not get officers into the next academy. Major Stafford stated that there 10 officers from other departments who did not make the cap. Admitting those ten officers and the seven Manchester officers would bring the total to 77 recruits for the next academy, before the physical agility tests were completed. Vice Chancellor Annal asked the Director for his sense of how the cap of 60 will impact the law enforcement community going forward. Commissioner Wrenn noted that historically the academy size has run over 60; Chief Russell pointed out that staff researched historical data and found that the average academy size was in fact 62.5.

Chief Russell recommended that Sergeant Favreau develop a plan for how the Department can work with Police Standards and Training staff going forward. The Chief recalled that as an instructor he taught to classes that had 80 recruits and this is not manageable. For example, with 80 recruits a 10-minute break easily stretches to 30 minutes. Overcrowding has a detrimental effect on the quality of training and limits the participation in scenarios, in fire-arms, in driving, etc. for each recruit. Chief Russell agreed, though, that it would be appropriate to make an exception for Manchester in this case and he hoped that the final number would not come out to be as many as 76 or 77.

Sergeant Favreau stated that his department was committed to working with the academy staff and were mindful about keeping in communication with them. Manchester officers participate as adjunct instructors or helpers currently, and they will plan to offer whatever support is needed in the future.

Chief Magnant asked the Director what could be done to ensure that the quality of training would not be degraded by expanding the cap. Is it possible, since Manchester is going to be putting through a fairly large number of officers, that training conducted within their department could be considered for certification purposes? Is there a way to “get creative” and ease the strain on the academy staff and facilities?

The Director felt that uniformity of training was critical and that accepting training programs outside the academy would diminish the cohesiveness that develops from standardized training. He assured the Council that the staff would be well prepared to make the changes needed to work with the larger academy size. The Council will be updated on what is needed and how staff is responding to those needs on a monthly basis, at least. With Colonel Booth’s support, cadre staff will be drawn from the Division of State Police as needed.

Judge Roberts supported a one-time waiver of the cap for Manchester. He had two questions:

1. *Would it be possible for the Manchester Police Department to volunteer additional help for this academy?*

Chief Jaskolka replied that Manchester already plans to send a cadre for this academy. Manchester provides additional instructors for driving and firearms training on a regular basis and will continue to do so, on request.

2. *To avoid this problem in the future is it possible for Police Standards and Training to post availability of slots on its website and update this information as slots are filled?*

The Director felt this was doable and agreed to initiate the change.

Judge Champagne wanted the limit for the next academy to be clearly defined. Major Stafford asserted that 77 is the current number of requests. The Director stipulated that all completed paperwork had to be submitted by December 3, 2007, 14 days prior to the scheduled physical agility test. The maximum number allowed should not exceed the

number of beds available, i.e., 60 for males and 14 for females. Other beds are reserved for the Corrections Academy. At 77, it should be fine and the facilities could be adapted to accommodate a one-time request. The Director confirmed that there were 66 recruits graduated from the last academy.

Judge Champagne moved that the Council make an exception to the upcoming academy and cap it at 77. Chief Magnant requested that the motion include the stipulation that the Council will be updated on a monthly basis; he seconded the motion, and the Council voted to pass the motion on a unanimous voice vote.

Chief Jaskolka thanked the Council for their decision and for taking the time to consider the request. He asked the Director and Major Stafford to advise him about whatever assistance Manchester could provide to support the next academy.

Criteria for Selecting Decertification Cases

Director Vittum stated that this discussion would be continued until the December meeting when Chairman Prozzo would be present to participate. Deputy Attorney General Fitch moved to table the item until December 18, a motion that was seconded by Colonel Booth and affirmed by the Council on a voice vote.

Comments from Chiefs Association Conveyed

Chief Morency stated that he had presented to the Executive Board of the Chiefs Association the Council's proposal to include the entrance physical testing in the Part-Time Police Academy and this was well received. Chief Morency will address the general meeting of the Chiefs on this matter later this week. So far, the concept has received the support of the Chiefs. Prompted by a question by Chief Russell, Mr. Lohmann indicated that this may be a rule change or simply a change to the Technical Assistance Manual. This stipulation could be included in a public hearing on the adoption of the rules revisions already presented, if it requires a rule change.

Closing Comments by the Director

The Director thanked each Council member for the time they spent this month meeting with him face-to-face and on the phone over the past two weeks to discuss various issues planned for future agendas.

Next Meeting Date/Adjournment

Justice Champagne inquired about the status of the Request for Declaratory Ruling by the New Hampshire Troopers Association, and the Director stated that this item would come before the Council at their December meeting. Nancy Smith from the Attorney General's Office will speak to the issue at that time.

Deputy Attorney General Fitch informed the Council that they would be getting some legal advice from the AG's office that suggests that NHTA has no standing with the Council, who are empowered to deal with issues affecting individual officers, not representative groups such as theirs.

The next meeting of the Council is scheduled for *Tuesday, December 18, 2007, at nine o'clock in the morning.*

Upon a motion by Deputy Attorney General Fitch, seconded by Chief Morency, the Council voted unanimously to adjourn the meeting at 11:30 a.m.

Respectfully submitted,

Vice Chairman William L. Wrenn, Jr.