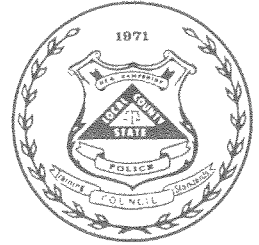




Sheriff Michael L. Prozzo, Jr.
Chairman

State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
ARTHUR D. KEHAS
LAW ENFORCEMENT TRAINING FACILITY & CAMPUS
17 Institute Drive — Concord, N.H. 03301-7413
603-271-2133 FAX 603-271-1785
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Donald L. Vittum
Director

Minutes

February 24, 2009

The 381st meeting of the New Hampshire Police Standards and Training Council was called to order at 9:08 a.m. by Chairman Michael L. Prozzo Jr., Sheriff of Sullivan County, in the John D. Morton conference room at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Richard A. Foote, Sheriff of Cheshire County; Chief Gregory C. Dodge, Epping Police Department; Associate Justice Norman E. Champagne, Manchester District Court; Colonel Frederick H. Booth, New Hampshire State Police; Chief Peter Morency, Berlin Police Department; Chief Timothy Russell, Henniker Police Department; Commissioner William L. Wrenn, Jr., New Hampshire Department of Corrections; and, Attorney General Kelly Ayotte.

Members Absent: Associate Justice Stephen H. Roberts, Dover District Court; Chief Michael J. Magnant, Portsmouth Police Department; and, Vice Chancellor Charles Annal, New Hampshire Community College System.

Staff Present: Director Donald Vittum, Investigative Paralegal Anne Paquin, Mr. Keith Lohmann, Chief (ret.) Timothy Merrill, Captain Benjamin Jean, and Council Secretary Kathryn Day.

Guests Present: Corrections Officer Todd Ash; Mr. Norman Markey and Mr. Carl Madsen of the Special Housing Unit, New Hampshire Department of Corrections; Manchester Police Department Deputy Chief Gary Simmons; and, Captain Chris Nervick of the Milford Police Department.

Call to Order

Chairman Prozzo called the meeting to order at 9:08 a.m. Sheriff Foote arrived at 9:21 a.m.

Approval of Minutes

Colonel Booth moved that the Council approve the minutes of January 27, 2009, as submitted. Following a second by Chief Russell, the voice vote of the Council was unanimous in favor.

Director's Report

The Director had no additional comments, but welcomed questions from the Council.

Previous and/or Unfinished Business

Rules Change

The Joint Legislative Committee on Administrative Rules has approved the changes proposed for Part Pol 301.04, Pol 301.07, and Pol 301.08, to implement entrance fitness testing for the Part-Time Officer Academy on Friday, February 20, 2009. Mr. Lohmann stated that once the Council has formally adopted the approved changes they would become effective on Friday, February 27, 2009.

The approved changes are:

Amend Pol 301.04 (a), effective 8-1-08 (Doc #9224), so that Pol 301.04 intro and Pol 301.04(a) are cited and read as follows:

Pol 301.04 Physical Examination. Each applicant shall meet the following requirements relative to the applicant's physical examination:

- (a) Each uncertified person employed as a ~~full-time~~ police or corrections officer, after being issued a conditional offer of probationary employment by the hiring authority, shall undergo a physical examination by a New Hampshire licensed physician. For the purposes of this rule, "licensed physician" shall also include a licensed health care provider.

Repeal Pol 301.07, effective 8-1-08 (Doc. #9224), as follows:

~~Pol 301.07 Medical Standards for Part-Time Officers. All uncertified part time police officers, corrections officers, and probation/parole officers employed by the state of New Hampshire, and all part time police officers employed by local units of government who have accepted this requirement by approving the necessary funding, shall, prior to hiring, successfully pass the same medical examination according to the same protocols as are required of full-time officer in Pol 301.04.~~

Readopt and renumber Pol 301.08 and Pol 301.09, effective 8-1-08 (Doc. #9224), as Pol 301.07 and Pol 301.08 to read as follows:

~~Pol 301.08~~ Pol 301.07 Psychological Screening Test. Each applicant shall meet the following requirements relative to the applicant's psychological screening:

- (a) All uncertified police officers, correctional officers, and probation/parole officers employed by the state of New Hampshire, full-time or part-time, and all police officers, full-time or part-time who are employed by local units of government who have accepted this requirement by approving the necessary funding shall, prior to hiring, successfully pass a psychological screening test battery administered under the direction of a licensed psychologist or psychiatrist.

(b) Such test battery shall be normed for law enforcement occupations and shall be designed to detect both mental illness and behavioral traits that could adversely affect the person's ability to successfully perform the essential functions of a law enforcement, corrections or probation/parole officer.

(c) Such an examination shall be valid for a period of 12 months from the date of administration for purposes of application for such employment, and a valid test given by one department within such time frame may be used by another agency if the second agency has access to the test results.

(d) For the purpose of this section, "administered under the direction of a licensed psychologist or psychiatrist" shall include a test battery of the type herein prescribed that the hiring authority procured from a person, firm or corporation where the scoring and reporting of the results is done by a psychologist or psychiatrist who currently holds a valid license under the laws of any state.

(e) No person shall be hired as a police, corrections or probation/parole officer if the results of the psychological test battery indicate that the candidate is currently suffering from a diagnosable mental illness or exhibits behavioral traits that, in the opinion of the psychologist or psychiatrist, could adversely affect such person's ability to perform the essential functions of a law enforcement officer, or, who, in the opinion of the psychologist or psychiatrist or the hiring authority exhibits a psychological profile that is incompatible with that which is required for law enforcement duties.

(f) Examples of an incompatible profile shall include but not be limited to:

- (1) A lack of impulse control;
- (2) A lack of anger management;
- (3) A propensity for assaultive behavior; and
- (4) A propensity for illegal sexual behavior.

(g) No person shall be denied employment as the result of such a testing process unless they have been given the opportunity for a personal interview with a licensed psychologist or psychiatrist employed by the agency.

~~Pol 301.09~~ Pol 301.08 Testing Fees Allowed. The following shall apply to the application of testing fees.

(a) An agency, at its option, may assess to applicants a testing fee to cover all or part of the cost of any medical or psychological examination required under this part in cases where the applicant has been tendered a conditional offer of employment; and

(b) An agency may also make repayment of a testing fee part of a training or hiring contract that establishes a minimum term of employment for such an officer.

Upon a motion put forth by Chief Morency and seconded by Judge Champagne for the Council to adopt the approved proposed changes above, the Council voiced their unanimous consent. The new rules go into effect on Friday, February 27, 2009.

SWAT/SOU Study

Mr. Lohman proposed March 16 for the members of the working group to meet at Police Standards and Training at 9 a.m. Later that day, NTOA will meet with representatives from the 13 New Hampshire SWAT/SOU teams to kick off the study. However, Chief Russell and Sheriff Foote will be unable to attend on March 16 and Chief Magnant's availability is unknown at this time. Commissioner Wrenn asked for an alternative date that would allow all of the members of the working group to participate, and Mr. Lohmann informed that the NTOA has offered April 6, 7, and 8 as other dates they can be available. It was agreed, then, to set the meeting for 9 a.m. on April 8, 2009, at Police Standards and Training in Concord.

Attorney General Ayotte thanked the Council for their willingness to take on this task and complimented the Director on his presentation to the Governor and Executive Council regarding the funding of this study, which they approved. The study is expected to be completed in the current fiscal year.

Decertification Hearing

NONPUBLIC SESSION: Corrections Officer Todd Ash

Note that Commissioner Wrenn recused himself from this matter and was not present during the nonpublic session.

CO Todd Ash was accompanied Mr. Norman Markey and Mr. Carl Madsen of the Special Housing Unit, New Hampshire Department of Corrections. CO Ash appeared to show cause why his certification should not be suspended pursuant to Pol 402.02 (a) (4). CO Theriault was informed on the hearing procedure and indicated that he wished for the matter to be held in nonpublic session.

A motion by Chief Dodge, for the Council enter into a nonpublic session, as provided in RSA 91-A:3, II (c) for the purpose of discussing personnel matters, was seconded by Chief Morency. The roll call vote of the Council was affirmative, 8-0, with Commissioner Wrenn absented. The nonpublic session commenced at 9:34 a.m.

Chief Morency moved to seal the minutes of the nonpublic session. The Council voiced their unanimous consent, following a second by Chief Dodge.

Chief Morency moved that the Council exit the nonpublic session, a motion seconded by Chief Dodge. Again, the roll call vote of the Council (excluding Commissioner Wrenn) supported the motion, 8-0. The nonpublic session concluded at 9:54 a.m.

Based on the aggravated nature of the offense at issue, Chief Morency recommended a suspension period twice as long as what the Council imposed for the same offense in the

past without such aggravating circumstances. Chief Morency, therefore, moved that the Council suspend the certification of CO Todd Ash for a period of twelve months, effective immediately. Chief Dodge seconded the motion.

Attorney General Ayotte asked if there were a good number of similar cases in the past in which the Council suspended certification. Chairman Prozzo recalled it has been a number of years since great numbers of violations have come before the Council and he could not remember a specific aggravated case, although there was at least one, maybe two, in the past.

Chief Russell recommended that prior to having his certification reinstated, CO Ash submit to a LADAC evaluation and demonstrate to the Council that he has followed any recommendations that come about as a result of the LADAC evaluation. Chief Morency and Chief Dodge agreed to this amendment to the motion on the table. Justice Champagne concurred with the added condition, too.

Chairman Prozzo, hearing no further discussion, called for a vote and the Council voiced their unanimous approval, with Commissioner Wrenn abstaining.

CONSENT CALENDAR

The following requests were included in a Consent Calendar:

PT&E Request (Full-Time)

The Council considered the following request for full-time certification based upon prior training and experience:

Officer Richard M. Carlson, Franklin Police Department

(DOH: 01/05/09) requests consideration for full-time certification based upon prior training and experience. Staff recommends granting certification upon the successful completion of the medical exam and entrance fitness testing, the Law Package of the Full-Time Officer Academy, and First Aid/CPR certification, if lapsed.

The Council supported the staff recommendations for these **Requests for Extension** through the 149th Full-Time Officer Academy:

Officer David M. Abbott, Peterborough Police Department

(DOH: 01/04/09 **Part-Time Certified**) Staff recommends granting the extension.

Officer Jeffrey B. Brown, Hillsboro Police Department

(DOH: 01/05/09 **Not Part-Time Certified**) Staff recommends granting the extension with the stipulation that Officer Brown continue to work only under the supervision of a full-time certified officer.

Officer Greg E. Collins, Haverhill Police Department

(DOH: 01/08/09 **Part-Time Certified**) Staff recommends granting the extension.

Officer Bryan D. Croft, Franklin Police Department

(DOH: 01/05/09 **Not Part-Time Certified**) Staff recommends granting the extension with the stipulation that Officer Croft continue to work only under the supervision of a full-time certified officer.

Officer Camden E. Elliott, Campton Police Department

(DOH: 11/24/09 **Part-Time Certified**) Staff recommends granting the extension.

Officer Brian K. Lord, Antrim Police Department

(DOH: 12/29/08 **Part-Time Certified**) Staff recommends granting the extension.

Officer Kyle L. Macie, Keene Police Department

(DOH: 08/31/08 **Not part-time certified**) PT&E approved in September 2008. Staff recommends granting the extension with the stipulation that Officer Macie continue to work under the supervision of a full-time certified officer.

Officer Matthew E. Newbauer, Franklin Police Department

(DOH: 01/05/09 **Not Part-Time Certified**) Staff recommends granting the extension with the stipulation that Officer Newbauer continue to work only under the supervision of a full-time certified officer.

Officer Colin Wheeler, Farmington Police Department

(DOH: 01/06/09 **Not Part-Time Certified**) Staff recommends granting the extension with the stipulation that Officer Wheeler continue to work under the supervision of a full-time certified officer.

Commissioner Wrenn, seconded by Chief Morency, moved that the Council approve the staff recommendations on the request for certification based upon prior training and experience and the requests for extensions for all of the officers named above. The voice vote of the Council was in favor, 9-0.

Training Grant Requests

There were no requests for specialized training grants recommended for approval at this meeting, although several applications were submitted. These agencies were informed that there would be no further training grants recommended for approval in this fiscal year, except for training scheduled to take place after July 1.

Director Vittum stated that 10 agencies submitted applications for training grant funds, and because the available balance could accommodate only two or three of these requests, the decision was made in the interest of fairness to suspend training grants altogether until the Council indicated a preference for how the remaining funds would be distributed. The current available balance is less than \$4,000.

The Council agreed that this remaining balance should not be allowed to lapse and asked the Director to contact the departments that submitted requests for the current agenda and determine whether they still had an interest in being considered for a grant. The agencies that respond to this contact will be given an opportunity to address the Council at their meeting on March 24 and compete for the remaining funds.

Other New Business

Requests for Extension for Longer Than Six Months

Pelham Police Department, on behalf of Officer Derek A. Gioia, (DOH: 12/28/08 **Part-Time Certified**) requested an extension through the 150th Full-Time Officer Academy. An extension is required to allow Officer Gioia to complete his academic studies and because the completion date of the 150th Academy exceeds the six months following his date of hire.

Commissioner Wrenn asked if a similar request had been considered in the past, and Mr. Lohmann stated that there had been a similar request brought before the Council in December 2008. To remain consistent with the action on the prior request, Commissioner Wrenn moved that the Council deny Officer Gioia's request, and the motion was seconded by Chief Dodge.

Chairman Prozzo asked if the circumstances of the request considered in December 2008 were similar to the request of Officer Gioia. Chief Dodge questioned the reason for hiring the officer before he completes his studies in May, rather than waiting until he was available to apply for admission to the Academy. Chief Russell noted that Officer Gioia was presently part-time certified and that denying the request would probably not impose a hardship on the department.

Director Vittum stated that there were only 34 recruits slated for the 149th Academy and just 6 recruits, so far, for the 150th Academy. Director Vittum could not verify how many hours a week Officer Gioia is scheduled to work, but confirmed that he is part-time certified and was hired as a full-time officer with the department.

Chief Russell agreed that a decision on this request should be consistent with the action taken in December. Chairman Prozzo agreed to delay a vote on the pending motion so that the Council could review the minutes of their December meeting. Please note that Sheriff Foote was not present for all of this discussion.

The Council reviewed the following excerpt from the minutes of December 16, 2008:

Officer Christopher Ball, Plymouth Police Department (DOH: 10/20/2008) *requested an extension beyond the six months after hiring until December 2009, through the end of the 150th Full-Time Academy. An extension is required because the completion date of the Academy exceeds the six months from his date of hire.*

This extension is requested to accommodate Officer Ball's current academic schedule. Officer Ball was hired in October and is attending classes full-time and is currently part-time certified and employed full-time by the Plymouth Police Department. Officer Ball expects to complete his academic studies before the start of the 150th Full-Time Academy and is requesting an extension of more than the customary six months.

The Council considered that Officer Ball is part-time certified and working under the supervision of a full-time certified officer and Officer Ball has made this request in anticipation of exceeding the six months following his date of hire due to his ongoing studies and with the intention of providing as much notice as possible of his request for an extension of more than six months.

Notwithstanding, Commissioner Wrenn felt that extensions should be granted only in increments of up to six months and not longer.

Following a motion by Justice Roberts, seconded by Chief Morency, five members of the Council voted to approve an extension for Officer Ball through the end of the 150th Full-Time Academy, with the stipulation that Officer Ball continue to work only under the supervision of a full-time certified officer; Colonel Booth was not present and Commissioner Wrenn, Chief Dodge, and Sheriff Foote voted no. The motion carried with a majority vote, 5-3.

Hearing no further discussion, the Chairman called for a voice vote on the pending motion to deny the request of Officer Gioia for extension through the 150th Full-Time Officer Academy. Commissioner Wrenn, Chief Morency, and Chief Dodge supported the motion, but, with five members opposed, it was defeated.

Chairman Prozzo called for a new motion, and Attorney General Ayotte put forth the following motion, seconded by Colonel Booth:

MOVED: That the Council approve the request of Officer Derek Gioia for extension through the 150th Full-Time Officer Academy.

Hearing no discussion, the Chairman called for a voice vote. The motion carried, 6-3, with Commissioner Wrenn, Chief Morency, and Chief Dodge opposed.

NONPUBLIC SESSION: Other Requests for Extension

Mr. Lohmann asked the Council to consider other requests for extension in nonpublic session. Commissioner Wrenn moved that the Council enter into a nonpublic session to discuss personnel/medical issues, pursuant to RSA 91-A:3, II (c). Chief Russell seconded the motion and the roll call vote of the Council was unanimous. The nonpublic session commenced at 9:25 a.m.

Attorney General Ayotte moved to seal the minutes of the nonpublic session, with Commissioner Wrenn moving to second. The voice vote of the Council was unanimous in favor.

Attorney General Ayotte further moved that the Council exit the nonpublic session. Following a second by Commissioner Wrenn, a roll call vote carried the motion, 9-0. The nonpublic session concluded at 9:30 a.m.

Upon return to public session, Attorney General Ayotte moved that the Council approve the requests of Officer Rosaleen B. Cowhey-Draleus and Officer Candy I. Pena, both of the Manchester Police Department, for extension through the 150th Full-Time Officer Academy. This motion, seconded by Justice Champagne, carried with a unanimous voice vote of the Council.

Other Business

NONPUBLIC SESSION: Annual Compliance

For the purposes of discussing personnel matters, Chief Dodge moved that the Council enter into a nonpublic session, pursuant to RSA 91-A:3, II (c). Chief Morency seconded the motion and the Council consented in a unanimous roll call vote. The nonpublic session commenced at 10:07 a.m.

Chief Morency seconded a motion by Chief Dodge to seal the minutes of the nonpublic session. The voice vote of the Council was unanimous in support.

Chief Dodge further moved that the Council exit the nonpublic session, and with a second by Chief Morency, a roll call vote resulted in unanimous agreement. The nonpublic session concluded at 10:15 a.m.

Based on the testimony in nonpublic session by the Deputy Chief of the Manchester Police Department, the Council elected to take no action in this matter, having found just cause for the noncompliance of 34 Manchester officers with annual requirements for firearms qualification in 2008. Commissioner Wrenn moved that this outcome be noted in the minutes. Following a second by Attorney General Ayotte, the motion carried on a unanimous voice vote.

Milford Police Department

Captain Christopher Nervik appeared before the Council on behalf of the Milford Police Department to express their concerns relative to requirements for ongoing physical fitness testing. Captain Nervik stated that the Department fully supports compliance with the statute and he noted that even those Milford officers certified prior to 2001 have made efforts to stay physically fit and have enjoyed the health benefits that result.

Captain Nervik put forth these points to outline the concerns of the Department:

- ▶ Seven Milford officers were due to comply with the ongoing physical fitness testing requirement in 2008. Captain Nervik sent an email in May 2008 to “everybody” identifying the seven officers due for the testing and announced that he would arrange for the testing to be conducted at the Milford Police Department. The fitness test was scheduled to take place August 2008.
- ▶ At the beginning of August 2008, Captain Nervik sent another email to remind the seven officers that they needed to provide a statement signed by their physician to verify that they were medically able to perform the test. Six officers submitted documentation from their physician. One of these six was not cleared for testing because of an injury (broken leg).
- ▶ Captain Nervik followed up with the seventh officer in person to request the medical waiver. Later that week, this officer submitted a statement signed by his physician that indicated that the officer could not participate in the testing. This raised questions about this officer’s ability to continue patrolling and about liability issues for the Town of Milford.
- ▶ After the first of the year (2009), Captain Nervik issued a letter placing this officer on restricted duty and assigned him to the detectives division, where he was restricted from participating in outside details, any patrol overtime shifts, or any other type of work that would be physically demanding.

The question now is, Captain Nervik stated, “Where do we go from here?”

Captain Nervik acknowledged that the Council has granted an extension to this officer and the injured officer, giving them until July 1, 2009, to meet the fitness testing requirement. The injured officer has recovered and will be taking his fitness test in the next day or two. However, it seems possible that the officer who was not cleared to participate could require subsequent extensions of time amounting to a total of two years as provided in the statute.

Chairman Prozzo explained that under the statute, the Council is not empowered to decertify an officer who has been exempted for medical reasons from participating in ongoing fitness testing, unless and until the two years have lapsed. Commissioner Wrenn recognized the dilemma for the Department, but it was not clearly defined what the issue was for the Council to act upon. Captain Nervik indicated that it was the Council's advice that was needed, because the officer's physician has not defined how long it might be before the officer is cleared to take the test.

Commissioner Wrenn advised that the situation would have to run its course. He also said that the onus is upon the individual officer to meet the requirement and the officer is responsible for presenting any medical issues to the Council, not the hiring agency. Beyond granting additional extensions for medical reasons, there is no action for the Council to take until the two year maximum has been allowed and the officer has still not complied.

Attorney General Ayotte inquired whether the Milford Police Department has consulted with the Town's counsel to address this issue. Captain Nervik responded no and, because of the ability to reassign the officer to the detective division and restrict his duties, the Town is not exposed to liability issues at the present time. Attorney General Ayotte advised that the Department not act without consulting with the Town's counsel to make sure that there is not a violation of the Americans with Disabilities Act. Also, to raise a per se liability issue poses a legal question when there are so many police officers who have been grandfathered under the statute requiring ongoing physical fitness testing.

Captain Nervik stated that, in the Department's view, the issue of the officer not even being able to attempt the test due to medical reasons was the concern and the purpose of bringing it before the Council was to ask for guidance on a problem that may have been raised by other agencies in the past. Colonel Booth recognized the difficulties presented when physicians recommend light duty assignments and he recommended that the Department hire their own physician to evaluate the officer and give an independent second opinion. Commissioner Wrenn agreed and commented that a physician representing the Town's interest would be qualified to give an opinion about whether the medical issue is temporary or is not expected to improve enough to allow the officer to participate in testing.

Commissioner Wrenn went on to add that the Council has accommodated officers who present requests for alternative testing, such as allowing the Schwinn Aerodyne bike for officers who have difficulty completing the run due to medical issues. However, the Council has no input regarding "light duty" assignments or any liability that may be posed because of medical issues.

Chief Russell asked if the officer's condition was a recent development. Captain Nervik stated that the officer passed the Department's entrance fitness test when he was hired in 2007. The Milford Police Department conducts physical agility testing for new hires at the 50th percentile to ensure that an officer who must come to the Academy can "easily pass" at the 35th percentile, the requirement for successful entrance fitness testing.

The officer in question was diagnosed only recently with asthma and other than that very little information has been forthcoming. Colonel Booth pointed out that if a physician hired by the Town were consulted, that individual would be able to have direct contact with the officer's doctor to explore specific medical opinions. Attorney General Ayotte commented that if physical fitness were required by the Department as a condition of employment, it would be appropriate for the officer to be examined by the Town's doctor who could then offer a qualified second opinion.

Sheriff Foote asked if the officer's performance was satisfactory – is he a "good" employee? Or, is there any underlying reason that he might not want to take the test? Captain Nervik replied that there have been no performance issues with this officer, other than not being cleared to participate in fitness testing. Moreover, the Department has made an effort to keep the fitness issue separate from any other "employee-type" issues, to make sure there is not a problem with further liability or ADA. The officer is considered a valued employee and the Department intends for him to return to full duty as soon as possible.

Chairman Prozzo thanked Captain Nervik for consulting with the Council and commended the Milford Police Department's proactive stance in dealing with their questions. Captain Nervik credited Chief Douglas's leadership and extended his appreciation for being heard.

Compliance with Year-End Reporting Requirements

Director Vittum reported that as of February 2, all agencies have submitted the required year-end reports on compliance with annual firearms qualification and in-service training, and 1,300-hour limitations on part-time police officers. However, some of the reports indicate that there are officers who have not completed the required eight hours of in-service training and/or firearms. Director Vittum asked the Council for a determination on how to proceed. The Council was briefed on what Nancy Smith of the Attorney General's office advised regarding the suspension of officers and considerations for future hearings for noncompliance with annual requirements.

Some of the questions that were raised:

- ▶ Who should be held responsible – the chief who filed the reports and continued to schedule the officer to work or the officer who is not in compliance?
- ▶ How is the Council going to treat training and/or qualifications after the end of the calendar year? If the requirement is completed in the following calendar year, does that meet the requirement of the preceding year or will it be applied to the current year?

- ▶ How should the noncompliance be addressed? If the officer's certification is suspended, when and for how long? Ms. Smith advised that certification can be suspended and/or revoked only after notice and an opportunity for a hearing.
- ▶ If an officer/chief is noticed for a hearing and completes the requirement before the hearing date, should he/she appear on the hearing date or be excused? Once the requirement has been met, the officer is no longer subject to sanction under the Rules.
- ▶ What would the Council consider "just cause" for noncompliance and what rationalizations would not be acceptable?

The Council agreed that annual requirements need to be completed for each calendar year. Therefore, when training or qualification is completed after the deadline (December 31), the annual requirement for the new calendar year is still in force and must be completed by December 31 of the current year.

The consensus of the Council was that the chief is responsible for accommodating their officer(s) so they can comply with annual requirements by December 31 and to file the required documentation by January 30 of each year. The chief should appear before the Council to address noncompliance in their Department; based on the justification offered by the chief, the Council can determine whether to hold a hearing for the officer who has not complied or to suspend the chief's certification for "willful noncompliance with Council Rules" (Council Rule 402.02 (a) (8)).

Specifically, there are 14 chiefs and 2 officers who are not in compliance with annual requirements for eight hours of in-service training; in addition, six officers have been suspended by their agency for this reason. Chiefs from these agencies were contacted by the Director and he informed them that year-end reporting was due and that a failure to do so would be a violation of Council Rules.

The Director stated that in the course of these conversations certain mitigating factors had come to light. For example, the Manchester Police Department had suffered extensive flooding and some of their training records were destroyed. The Council agreed that the Director should have discretion to bring similar circumstances to their attention and then work with the chief to remedy the noncompliance if they can show just cause.

Chief Morency moved that any chief whose officer was not in compliance with annual training and firearms qualification requirements and had failed to inform the Director of the legitimate reasons should appear before the Council on March 24, 2009, to show cause why their certification should not be suspended for willful violation of Council Rules. Sheriff Foote seconded the motion and the voice vote of the Council was affirmative, without exception.

Police Standards and Training Council & Staff Retreat

A planning session is scheduled for Monday, April 6, at Great Bay Community College. The Director has invited chiefs of local departments, Strafford County Sheriff Wayne Estes, a New Hampshire State Trooper, the President of the New Hampshire Police Association and the President of the New Hampshire Chiefs of Police to participate with the staff and Council members for the full day. On the following day, the Council and staff will meet for a second day at this location to discuss how the ideas and comments generated in the planning session can be incorporated in the budget for the coming biennium.

NONPUBLIC SESSION: Personnel Matters

At the request of Director Vittum, Chief Dodge moved that the Council enter into a nonpublic session to discuss personnel matters, as provided in RSA 91-A:3, II (c). Following a second by Chief Morency, the roll call vote of the Council was unanimous, 9-0. The nonpublic session commenced at 11:11 a.m.

With a second by Chief Morency, Chief Dodge moved to seal the minutes of the nonpublic session, and the vote of the Council was unanimous in support.

Chief Dodge, seconded by Chief Russell, moved for the Council to exit the nonpublic session. The Council voiced their unanimous agreement in a roll call vote. The nonpublic session concluded at 11:30 a.m.

Next Meeting Date/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday, March 24, 2009, at nine o'clock in the morning.

Upon a motion by Chief Dodge, seconded by Colonel Booth, the Council voted unanimously to adjourn the meeting at 11:31 a.m.

Respectfully submitted,



Chairman Michael L. Prozzo, Jr.