

MINUTES

November 22, 2005

The 342nd meeting of the NH Police Standards and Training Council was called to order at 9:07 a.m. by Vice Chairman William L. Wrenn, Jr., in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire.

Members Present: Sheriff Scott A. Carr, Carroll County Sheriff's Department; Chief Gregory C. Dodge, Epping Police Department; Chief Peter P. Morency, Berlin Police Department; Commissioner Stephen J. Curry, Department of Corrections; Charles Annal, Deputy Commissioner and designee of Commissioner William G. Simonton of the NH Community Technical College System; Colonel Frederick H. Booth, NH State Police who arrived at 10 a.m. due to an earlier commitment; and Associate Attorney General Ann Rice, designee of Attorney General Kelly A. Ayotte.

Staff Present: Director Keith H. Lohmann, Paralegal Cassandra Erickson, and Secretary Denise Crocker.

Sheriff Michael L. Prozzo of the Sullivan County Sheriff's Department; Attorney General Kelly A. Ayotte; Chief Michael J. Magnant, Portsmouth Police Department; Associate Justice Stephen H. Roberts, Dover District Court; and Associate Justice Norman E. Champagne, Manchester District Court were excused from the meeting due to prior commitments.

Guests: Brynn Lovejoy of Manchester, Deputy Chief Gary Simmons, Manchester Police Department; and Sergeant Steven Ranfos, Manchester Police Department.

Approval of Minutes

Following a motion by Sheriff Carr, seconded by Commissioner Curry, the Council voted unanimously to accept the Minutes of October 25, 2005, as presented.

Director's Report

Police Academy. The 138th Session of the Police Academy graduated last Friday evening, November 18, 2005. The featured speaker was the Assistant Commissioner Department of Safety, Earl Sweeney, who graciously agreed to speak when asked at the last minute.

Part-Time School. The 245th session of the Part-Time School graduated on November 5, 2005. There were 55 graduates including the video-conferencing students from Pease, Keene and Littleton.

Corrections Academy. The Corrections Academies are running back-to-back. This current session has 18 recruits and 8 civilians and will be completed before Christmas. Once again, what has been done with this session is the firearms section was completed before the Academy began and the week that would have been dedicated to firearms will be dedicated toward additional hands-on/academic material.

Joint Fiscal Committee. The Director met with the Joint Fiscal Committee last Wednesday evening (November 16, 2005) on the results of the Audit Report. The primary issue the Committee had was that PSTC has no way to verify the anticipated funding that should be received from the Penalty Assessment which has been an ongoing issue going back to 1997.

There are three agencies that PSTC receives funds from: (1) the Department of Safety which are the tickets that are paid (2) funds from the Administrative Office of the Courts which are the must appear or contested court cases and (3) funds from DOC which are monies from the prisoner supervision fees. PSTC can acquire reports on the monies that were given to the agency but cannot get reports on how much money was supposed to be allotted to the agency. Therefore, there is no way to independently determine how much money PSTC should be getting. This was a finding in previous audits and continues to be an issue. The Committee was concerned about this particular matter but it was not put to a motion, therefore, the Director was unsure if anything further was going to be done about the matter on the Committee's part. In the seven months the Auditors were here, they also tried to acquire this information unsuccessfully.

The Director has made some phone calls to facilitate rectifying this reporting problem. The Director spoke with Wes Colby who is the Business Administrator at the Department of Safety about acquiring this information and he has indicated that he has made a request to the Office of Information Technology to create a report to provide PSTC with the information that is needed but it has been coded as a low priority request. The Director also spoke with Don Goodneau in the Court system and was advised that they do not track total fines at this time. They, however, are instituting a new system which should give them the capability to provide this information to PSTC. The first installation of this new system will be in the Concord District Court in January. It will probably take a couple of years before this system is fully up and running. DOC recently received some funding to update their computer systems and Commissioner Curry indicated one of the first items to be upgraded in the area of Information Technology is the parole/probation restitution information. Commissioner Curry felt that the information PSTC requires may be available to them by the end of January.

Director Lohmann has copies of the Auditor's Report; if Council Members would like a copy, just let him know. The issues outlined in the report are being addressed to the best of staff's ability.

HB698 - The Penalty Assessment Bill. It was brought back to the table and passed House Finance last week with an amendment that removed the section of getting fees for cases that

were placed on file without a finding. The way bill now reads is that it states that if a fine is reduced in whole or in part the penalty assessment will be assessed on the original fine amount; of course, the caveat to that is if the judge finds hardship he can remove the Penalty Assessment in whole or in part. The second part of this bill is that in cases placed on file with a finding of guilty there will be a \$50 fee assessed; however, in the data the Director received from the AOC, this is probably only about 5% of the cases placed on file. The Director estimates that this will probably raise approximately \$150-\$200,000 a year. The Committee quoted that some one had stated that the bill as it stood was going to raise almost \$900,000 a year and the way it got through the Committee was they had said that when HB 2 was passed last July the budget projections had included HB698, which was something the Director was unaware of, but it had been used in their calculations of what the budget was going to be.

The people behind this bill were Representative Pappas and Representative Wheeler. It has passed House Finance; it now goes to the full House. If it passes the full House it will go onto the Senate. In the Senate, it will probably go to Judiciary, then to Finance and from there to the full Senate. The Director wasn't aware of how it was resurrected. He received a call from Beth Sergeant that the Legislature was having a hearing right then on HB 698 and he went right over and that's what transpired. It should result in some additional revenue for PSTC and that's the good news.

Personnel. Paul Moller from Weare has been hired and will start on Friday, November 25, 2005. He is a DT's and Firearms instructor, as well as an OC instructor. Jeff Mullaney announced that he will be leaving PSTC. His last day is Tuesday, November 29, 2005. Jeff is going to the Rockingham County Sheriff's Department and will be working at the Airport. There are two other conditional offers of employment out. We are currently in the process of doing the background checks and polygraphs. This leaves PSTC with a net 1 vacancy assuming the other two come through. The Director has spoken with Sara Sawyer at NHTI and her suggestion was to keep the full-time position and request State Personnel to create one or two part-time positions and use the money from the full-time position to fund the part-time position(s).

Video-Conferencing Presentation in Keene. On November 15th, the Director invited Cheshire County Chiefs of Police to meet at the video conference center in Keene. The Director met with them via video-conference. He demonstrated the capabilities of the system and then the Chiefs had their regular meeting. The only questions that surfaced from his presentation were "What happens if only one person shows up for the class? His response was that we leave it up to the individual and the department. If they want to stay at the site they can, if they want to come to Concord they can do that as well. The other question that was asked was regarding the length of the Police Academy. What the Director advised the Chiefs was that currently it was a 12-week Academy plus 2 weeks of Homeland Defense Training. He advised them that the Council was reviewing the length of the Academy but it would probably remain this way for about a year and then it could possibly be increased to 14 weeks, 15 weeks or more. Earl Nelson, the Coordinator in Keene, thought the Director's presentation received a very positive response there; therefore, the Director is planning to set up another similar presentation for Pease Tradesport.

CALEA. CALEA had their meeting in Nashville last week and decided that New Hampshire could continue with its existing agreement. CALEA has, however, raised an issue with the

Level 3 Certification, which is New Hampshire Accreditation. New Hampshire Accreditation is about 385 of the 430 total standards. CALEA questioned the need for whether it is really necessary to have NH Accreditation. At this point, there are no departments with New Hampshire Accreditation and once people get to CALEA Recognition they typically jump to Step 4 which is CALEA Accreditation. CALEA has put that issue on the agenda for their March Meeting which is in Jacksonville, Florida. This is something the Council should probably discuss in more detail. The Director's initial sense of it is if they told us to do away with New Hampshire Accreditation it is not going to hurt their program because people don't tend to use it anyway.

Rules Change. The December Meeting will be focused on discussing proposed rule changes. The Council will have a little more time than was originally indicated at the previous meeting. The Director discovered that the statute was changed with a retroactive clause giving the rules an eight-year life; therefore, our rules will not expire in 2006 but rather in 2008. The Director's suggestion was that there are some items that still need to be changed and the Council should move forward, look at the rules in December and make the changes that need to be changed; and then, since there will be rules taking effect and expiring at various times, he would suggest that in 2008 the Council move forward and readopt all of the rules at that time.

New Business

Eligibility Certification

Brynn E. Lovejoy, Manchester Police Department, Manchester Police Department is requesting an eligibility of certification decision from the Council. Vice Chairman Wrenn asked the parties involved if they chose to discuss the matter in nonpublic session as it involved a personnel matter. The decision of the parties was to enter into nonpublic session.

On a motion by Commissioner Curry, seconded by Associate Attorney General Ann Rice, the Council voted unanimously on a roll-call vote to enter into nonpublic session.

On a motion by Commissioner Curry, seconded by Chief Dodge, the Council voted unanimously to seal the minutes of the nonpublic session.

On a motion by Commissioner Curry, seconded by Chief Dodge, the Council voted unanimously on a roll-call to exit the nonpublic session.

After listening and discussing the information presented in the nonpublic session, the Council did not feel there was a matter that required their action upon return to public session.

Decertifications/Suspensions/Revocations/Surrenders

Decertification Steve Gubitosi, formerly of Bristol Police Department,

The Director outlined the circumstances of the case involving Steve Gubitosi, formerly of the Bristol Police Department for violation of 402.02 (a)(3) and 402.02(a)(4) k as a result of his

conviction in Belknap County Superior Court for stalking. This case has been a bit delayed in coming before the Council because Mr. Gubitosi appealed it to the New Hampshire Supreme Court and the Court's decision was rendered on October 25, 2005. His appeal was denied, he was ordered to pay \$10,000 in restitution and he received a 12-month sentence, with 6-months suspended. The Director suspects that the reason Mr. Gubitosi is not here today is that he is in the Belknap County jail. The exhibits for the case are:

Exhibit A - Form A from Bristol Police Department, dated July 1, 2002

Exhibit B - Full-time Certification, dated December 9, 1983

Exhibit C - Information in mittimus from Belknap Superior Court, docket # 03S092

Synopsis: On July 11, 2002, Mr. Gubitosi was told by Officer William Dexter of the Concord Police Department not to have any contact with the victim. She had gone to Concord Police Department to report that he had gone to her house and made her feel the small of his back and she felt the handle of a hand gun. As she was speaking to Officer Dexter, Mr. Gubitosi called her on her cell phone and she told him in the presence of the officer not to contact her. Officer Dexter then reiterated her request to Mr. Gubitosi. Later that evening, Mr. Gubitosi phoned her several times while he was on duty in Bristol. On September 19, 2002, Mr. Gubitosi drove into Zack's Lakeside Restaurant where the victim was dining with friends and placed a phone call to her while she was there. The phone call was witnessed by the victim's friends. Mr. Gubitosi denied making the phone call or being in the parking lot at the time.

Members of the Council asked if there had been any communication with Mr. Gubitosi. Cassandra Erickson noted that the return receipt card had been returned from the House of Corrections but not further communications have been received from Mr. Gubitosi.

Associate Attorney General Ann Rice abstained from this vote as the Attorney General's Office was involved in prosecuting this case. On a motion by Chief Dodge, seconded by Colonel Booth, the Council voted unanimously to revoke the certification of Officer Steve Gubitosi for violation of 402.02 (a)(3) and 402.02(a)(4), Stalking.

Prior Training and Experience Requests

Full-Time

Emmett P. Macken, Manchester Police Department.

The Director outlined the request of Emmett P. Macken, Manchester Police Department, for prior training and experience. On a motion by Colonel Booth, seconded by Commissioner Curry, the Council voted unanimously to accept staff recommendation and grant full-time certification based upon successful completion of the medical, PT test, New Hampshire Law Package at the Full-Time Academy and First Aid/CPR if lapsed.

Requests for Extensions**Full-Time****Tracy Trammell, Sanbornton Police Department**

After the Director outlined the reason for the request, on a motion by Colonel Booth, seconded by Associate Attorney General Ann Rice, the Council voted unanimously to grant the extension through the 140th Full-Time Academy to Officer Tracy Trammell of the Sanbornton Police Department.

Scott D. Flanagan, Lee Police Department

After the Director outlined the reason for the request, on a motion by Commissioner Curry, seconded by Associate Attorney General Ann Rice, the Council voted unanimously to grant the extension through the 140th Full-Time Academy to Officer Scott D. Flanagan of the Lee Police Department.

Part-Time**Donald Valente, Temple Greenville Police Department**

After the Director outlined the reason for the request, on a motion by Chief Dodge, seconded by Deputy Commissioner Annal, the Council voted unanimously to grant the extension through the 247th Part-Time School to Officer Valente of the Greenville Police Department. Commissioner Curry recused himself from this vote because Mr. Valente is also employed full-time by the New Hampshire Department of Corrections.

Specialized Training Grants

The Director noted that the \$5000.00 in additional funding for the Specialized Training Grant Account is in process. He noted further that the account currently contained enough funds to cover the grant requests listed below.

Command Training Programs

Dover Police Department. The Director outlined the request of the Dover Police Department to send Sergeant David Terlemezian to Roger Williams University School of Justice to attend the First Line Supervisor Course in Bristol, Rhode Island from January 22 – February 13, 2006, at a cost of \$1,000.00. On a motion by Sheriff Carr, seconded by Commissioner Curry, the Council unanimously approved the grant request for \$1,000.00 to the Dover Police Department for Sergeant Terlemezian.

Dover Police Department. The Director outlined the request of the Dover Police Department to send Sergeant William Breault to Roger Williams University School of Justice to attend the First Line Supervisor Course in Bristol, Rhode Island from April 16 – April 28, 2006, at a cost \$1,000.00. On a motion by Sheriff Carr, seconded by Commissioner Curry, the Council

unanimously approved the grant request for \$1,000.00 to the Dover Police Department for Sergeant Breault.

Hampton Police Department. The Director outlined the request of the Hampton Police Department to send Lieutenant Thomas P. Gudaitis to the Massachusetts Police Leadership Institute Program sponsored by the Lowell Police Department in Lowell, Massachusetts from April 10 – 21, 2006, at a cost of \$1,000.00. On a motion by Sheriff Carr, seconded by Commissioner Curry, the Council unanimously approved the grant request for \$1,000.00 to the Hampton Police Department for Lieutenant Gudaitis. Chief Wrenn abstained from the vote.

Seabrook Police Department. The Director outlined the request of the Seabrook Police Department to send Sergeant Mark Preston to “Chief Grant” Writing Training in Orlando, Florida from January 8 – 11, 2006 at a cost of \$885.74. The Director advised the Council that this was a vendor sponsored program and that there were other generic grant writing courses closer to home at much more reasonable rates. On a motion by Colonel Booth, seconded by Commissioner Curry, the Council voted to deny Seabrook’s grant request on the basis that it was a vendor-sponsored course and that there were generic grant writing courses available at a more reasonable rates.

Other Business

Request to Exceed the 1300 Rule

The Marine Patrol has requested that their personnel be exempted from the 1300-hour rule when their officers are teaching classes during the off season. The Council had rendered a decision on October 26, 2004, to grant them a one time waiver and asked Mr. Barrett to develop an alternative classification for 2005 and beyond to clearly differentiate when the officers were working as marine patrol officers and when they were teaching as civilians. The Director felt that the Council could grant another waiver and it would not affect the integrity of what the Council does. It, however, does create another potential area for which people could take advantage of the situation. If there is a better way to resolve this situation it would be beneficial to do so.

Deputy Commissioner Annal asked if the Marine Officers were paid separately for this function. The Director felt this was one of the issues. They are being paid as marine patrol officers and that was why the suggestion was made to use a different classification when they were teaching classes. However, the Marine Patrol does not seem to want to do this. The Council discussed the scope of their authority when off the water. According to the Marine Patrol, the officers have no authority when they are off the water.

The Director felt that the Marine Patrol Officers should use the same classification that the civilians use when teaching these classes and that would resolve the issue with the 1300-rule. Council members discussed exemptions that were permitted for part-time officers in the capacity of students and felt that there was some leeway here for the marine patrol officers being exempt as instructors. The Director then asked whether that would extend to all part-time officers? If any part-time officer is teaching (they already have an exemption as a student) are we going to create an exemption in this teaching capacity? Council members didn’t see this as

a negative approach. The Director suggested that if the Council is going to support the exemption for the Marine Patrol Officers that it be put in the form of a Declaratory Ruling so that it could be filed and could be announced to the State as a whole to maintain a level of consistency across the board.

On a motion by Chief Morency, seconded by Associate Attorney General Ann Rice to make a declaratory ruling that states that hours by a part-time officer spent as an instructor in a training function do not apply to the 1300-hour limitation, the Council opened a discussion on the details of the wording of this motion. It was decided the Cassie Erickson, PSTC's paralegal, would draft the details for the wording of the motion by the next meeting; thereby, the motion was tabled until such time.

The Director will contact Mr. Barrett and advise him of the Council's intent.

Development of Internal Staff Survey. Chief Wrenn handed out a draft of the Internal Staff Survey. Council Members discussed the draft and made suggestions for some minor revisions. Chief Wrenn will have the revisions incorporated into the survey and bring it back to the Council for final approval.

Results of Police Department Survey

The Director gave a presentation of the results of the survey that was conducted by PSTC to determine the level of customer satisfaction of the Police Departments. This data was also summarized on a handout that was given to the Council members. The previous survey was done in 2001. The overall return rate was 24% which was down about 50% from the 2001 survey.

There was a question on the survey regarding interest in Department Accreditation with a majority of the departments responding no interest. Their reasons given for no interest were not for small departments, no benefit, not needed, bureaucracy. The applicant testing question resulted in most departments doing an oral board, followed by written test and written psych. Polygraphs and live psych tests were down from the 2001.

The next section of the survey rated the programs. The question on recruit readiness resulted in approximately 50% of the respondents indicating that the recruits were well prepared. This is about the same as the 2001 survey results. In the 2001 survey, there was a 1.6% response that said the recruits were not well prepared but in the current survey there were no responses in this category. Clearly, however, the consensus was the recruits coming out of the Academy were not ready to go straight out in the field. The Director felt that the Academy needs to continue to strive to make the recruits more well-prepared. More hands on exercises is the way to making them more well-prepared and to decreasing the amount of time to getting them into the car by themselves and ready to work.

The police departments were asked what areas needed more focus at the Academy and the top five areas highlighted were Report Writing, Search and Seizure, Use of Discretion, Discipline, Teamwork and Pride--which were the same areas noted in 2001. The Director has purchased a

Report Writing program and is changing the structure of the Report Writing Class to incorporate this program into the training as a computer-based module. It will also be offered at the part-time school and to the in-service program. Chief Wrenn indicated that he would like to see emphasis placed on the formatting of a report—separating out the names of people, emphasizing the who, what, where, when, how, and why. On the question of what type of Academy police departments are looking for, the majority responded with a 14-week paramilitary program.

On the Part-Time Academy Focus, the four areas the respondents highlighted were Report Writing, Defensive Tactics, Criminal Code/S&S and Officer Safety/Traffic/DWI. The Director noted virtually no time is spent on Officer Safety/Traffic/DWI in the part-time school and he is not sure how to accomplish that. In the past, when the Part-Time School has been extended to include these subjects, no one attended.

Overall the police departments are satisfied with videoconferencing, in-service training, office staff, Articulate Suspicion, and the video library. Simulations got an overall rating of very good and 85% of the respondents felt compliance was where it should be.

Nonpublic Session - Personnel Matter

Chief Wrenn requested that the Council enter into a nonpublic session to discuss a personnel matter.

Following a motion made by Sheriff Carr, seconded by Colonel Booth, the Council voted unanimously on a roll-call vote to enter into a non-public session at 11:23 a.m. to discuss personnel matters.

Following the discussion, on a motion made by Chief Dodge and seconded by Deputy Commissioner Annal, the Council voted unanimously to seal the minutes of the non-public session.

Sheriff Carr then made a motion, seconded by Chief Dodge that the Council carried unanimously on a roll-call vote to exit the non-public session at 11:36 a.m.

Next Meeting Date/Adjournment

After scheduling the next Council Meeting date for 9:00 a.m., Monday, December 12, 2005, in the John Morton Conference Room, the Council unanimously voted to adjourn the meeting at 11:40 a.m., on a motion by Chief Dodge and seconded by Sheriff Carr.

Vice Chairman William L. Wrenn, Jr.