

MINUTES

March 28, 2006

The 346th Meeting of the NH Police Standards and Training Council was called to order at 9:05 a.m. by Chairman Michael L. Prozzo, Jr., of the Sullivan County Sheriff's Department in the PSTC assigned conference room at the Christmas Farm Inn in Jackson, New Hampshire.

Members Present: 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; Commissioner William L. Wrenn, Jr., Department of Corrections; and Attorney General Kelly A. Ayotte.

Staff Present: Director Keith H. Lohmann, Assistant Director Robert B. Stafford, Jr., Paralegal Cassandra Erickson, Assistant Attorney General Nancy Smith, PSTC's Counsel, and Secretary Denise Crocker.

Chief Michael J. Magnant, Portsmouth Police Department; Chief Gregory C. Dodge, Epping Police Department; Chief Peter P. Morency, Berlin Police Department; and Deputy Commissioner Charles Annal, designee of Commissioner William G. Simonton of the NH Community Technical College System were excused from today's meeting due to prior commitments.

Guests: Chief Karl F. Meyers, Jackson Police Department

Approval of Minutes

Following a motion by Sheriff Carr, seconded by Commissioner Wrenn, the Council voted unanimously to accept the Minutes of February 28, 2006, and the Minutes of the Special Meeting held on March 14, 2006, as presented.

Director's Report

Police Academy. The Police Academy graduation was held March 31st, with 55 recruits graduated. The Governor was in attendance.

Model Policy – Tasers®. The Director and the Assistant Director worked together to draft a policy on electronic control weapons. The Director reached the conclusion that Tasers® are not non-lethal weapons. The Director also concluded that it was probably appropriate to treat them in the same

category as OC spray. He considered that where there were problems with the Tasers[®], the police were probably using the Taser[®] inappropriately. The Director also presented an article that he located on the internet from the NY Times written by Amnesty International entitled US Taser[®] Deaths Up. Chief Russell noted that similar controversy existed with OC when it was first used and he felt if the Taser[®] is used properly then it should be fine. Commissioner Wrenn felt that you would have to evaluate the ratio of use with the number of fatalities along with consideration being given to mitigating factors that contributed to the deaths which might result in a conclusion that the number of deaths was very low.

The Director noted that he gets calls on what the policy should be on the use of Tasers[®] on a regular basis which was the reasoning behind the development of a model policy on this topic. In the development of the policy the Director looked at Taser[®]'s suggestion that the officer be exposed to the Taser[®] as part of the training program but the Director saw not usefulness in mandating exposure for certification due to the risks involved. The Director and Assistant Director referred back to OC and the reasoning behind exposing the officers to OC is that a person is capable of fighting their way through the OC exposure and the officer is also at risk of being exposed to the OC spray. Tasers[®] are not analogous to the same theory. Colonel Booth was pleased to see that the training did not include the wasteful firing of live cartridges.

Commissioner Wrenn indicated that the training focus needs to be on the Use of Force continuum and at what point on that continuum do you use these products. Commissioner Wrenn indicated that thinking needs to switch from whether something is lethal or non-lethal to where on the use of force continuum does this item fit in providing officers with the skills to know where and when it is appropriate to use these tools.

Judge Roberts asked if Taser[®] training was currently part of the Academy curriculum and the Director indicated it was not. Judge Roberts asked if there were other model policies that the Council has adopted and what is the perceived need for this one? The Director answered that there were about 30-35 other model policies based upon perceived need and focusing on high liability areas. The Director noted that there are a number of departments in the state that do not have policies and this gives them the opportunity to use the model policy as a basis for their own policy. The Director indicated that this provides a service to those departments and he believes that this is part of the function of PSTC. Judge Roberts then questioned whether the Taser[®] should be incorporated into the use of force training at the Academy. The Director indicated that incorporating the use of the Taser[®] would be an expensive undertaking but discussions could be incorporated into the use of force curriculum outlining that if your department uses Tasers[®] this is where it would be utilized as opposed to the hands on training.

The Director asked the question under the medical section of the policy "was the statement, 'People should be monitored carefully for medical effects or impacts,' adequate or should additional information be added?" Commissioner Wrenn felt the statement was adequate. Chief Russell indicated that if a local department adopted the model policy and chose to enhance it that would be at their discretion. Chief Russell felt it was a good policy and should be distributed. The general consensus of the Council was that this was an appropriate model policy.

CALEA. The Assistant Director and Mike French went down to the CALEA meeting during the week of March 20th. They presented PSTC's case that the Alliance Agreement which New Hampshire currently has with CALEA should remain intact. The Assistant Director advised the Council that Mike French did an exceptional job at presenting the Council's position at the CALEA conference. Chief French spent about 40 minutes outlining the reasoning for New Hampshire's request, but the Commission returned with a decision that it was their position that New Hampshire will have to meet all the core standards. The Commission was not interested in discussing an alternative agreement at this meeting. Mike French and the Assistant Director spoke with some of the members off the record and Chief French went back before the full commission and asked for another three-month reprieve to return with an alternative proposal, which CALEA granted. Mike French will return with the three-year time line proposal that was discussed at the February meeting at CALEA's next meeting. The Director, however, is getting a sense that this proposal may not be acceptable to CALEA either. The Director suggested that if CALEA doesn't accept the new proposal, the Council needs to decide in what direction it wishes to proceed.

The Director noted that NEPAC does a wonderful job and if the Council does decide to withdraw from the CALEA program NEPAC will not be pleased but he is not sure there is a viable alternative based on the direction and attitude that CALEA is currently taking. The Director feels it is not CALEA's place to drive what the State of New Hampshire does. Chief Russell stated that NEPAC people should voice their frustration to CALEA.

The Director stated that as of right now PSTC has another 3-month reprieve on State Recognition but what PSTC was told at the meeting was that New Hampshire had to meet all the core standards if we are going to continue in the Alliance Program which means that NH State Recognition as it currently exists will be gone. The Director's sense is that Mike French should bring the 3-year idea, which basically is that a department gets state recognition for 3-years and then jumps up to the next level and if it doesn't attain the next level it loses its recognition which is not the best approach, to CALEA. He further felt that if CALEA doesn't accept this proposal then maybe it is time to consider withdrawing from their program.

Chief Russell asked if it were feasible to create our own program. The Director indicated that it would be a great deal of work and the wording would have to be scrutinized to avoid any copy right issues. The other item that would be lost is the use of the CALEA seal for department letterhead. The final question is whether NEPAC would be willing to participate in an independent program. The Director feels in some ways this may be an opportunity for New Hampshire. Commission Wrenn suggested that we take the IACP Policies, our own Model Policies and create our own program and develop our own recognition program. Chairman Prozzo suggested that this discussion be tabled until the next meeting with CALEA. Chief Russell added as a final thought that if the Council decides to develop its own program the Local Government Center is going to be very interested in this.

Request For PT&E Exception. **Sergeant Thomas C. Dronsfield, Jr., Lee Police Department** is in the Director's Report because it an unusual request. He was granted PT&E and came to the 139th PT test and failed. He then came to the 140th PT test and due to a medical condition, staff

refused to allow him to take the test. Chief Murch is requesting that Sergeant Dronsfield be permitted to attend the NH Law package portion of the Academy prior to successfully completing the PT test. There is a history on this type of request. It was permitted in the past and posed problems; at that point, the Council decided to not allow any training until the PT test had been passed. The Chief is requesting this exception as he feels it will adversely affect his department without the exception. The Director asked the Council if they wished to entertain a change in policy whereby they will allow PT&E people who have failed the test to come to the Law Package, receive the training and withhold the certification until such time as they pass the test or did the Council wish to remain consistent in their policy and not allow them to come for the training until they pass the PT?

Sheriff Carr had no reservation about the officer coming to the training prior to passing the PT testing based on the fact that in order to get certification the officer has to complete all the requirements.

Attorney General Ayotte stated that if the Council grants this request then in the letter sent to the officer it should indicate clearly that certification will not be issued until he successfully passes all requirements including the PT test.

The Director then stated that if the Council does this as a matter of policy, the opportunity to come to the Law Package should then be extended to anyone else who has failed the test.

Commissioner Wrenn felt Sergeant Dronsfield should be allowed to take the Law Package now. Judge Roberts and the Attorney General did not feel that allowing this officer to take the Law Package prior to passing the PT test constituted a complete change in Council Policy. Judge Roberts felt that the facts in this case constituted an exception to the policy and exceptions to the policy should be handled on a case by case basis. The Attorney General agreed.

On a motion by Commissioner Wrenn, seconded by Judge Champagne, to grant Sergeant Thomas C. Dronsfield of the Lee Police Department an extension to complete the PT test by the 141st Academy and to be permitted to attend the Law package portion at the Full-Time Academy prior to passing the PT test, the Council voted unanimously in favor of granting Sergeant Dronsfield the extension and permitting him to attend the Law Package portion at the Academy prior to the passing of PT test on condition that he understand that he will not be granted certification until all requirements have been met which includes successfully passing the PT test.

Court Security. The Director brought to the Council's attention a couple of matters on court security. The Court Security Committee's recommendation was that the training for CSO's should be changed and that PSTC should be doing that training. In that recommendation by the Supreme Court there was no funding recommendation. The Director wrote a letter to Justice Galway making that point; and the Judge acknowledged that, indicating a discussion would have to ensue on that matter. Two developments have occurred since then. Legislation has been filed to add court security to the Joint Court Security Oversight Committee in the Legislature and the second item is that the Director has been approached by the Sheriff's Association about what position they were going to take regarding the possibility of assuming responsibility for state-wide court security,

including the district courts. The Director will be meeting with the Sheriffs on March 29th.

The Director's position would be if the responsibility falls to PSTC and the funding is available to do this he would develop a training program for a category of people entitled "Court Bailiffs" which would be longer than the two-weeks training that is currently in place but would be less than full police certification. The Director had a call from Don Goodnow at AOC who said that their court security people are in serious need of help and asked the Director to run their training program including their firearms qualification. He further advised the Director there were no funds to support the program. The Director requested that he put it in writing for discussion with the Council. To date, the Director has not received the written proposal. The Director advised the Council that this is coming in the future and that this Agency currently does not have the resources to do it and that if PSTC were to do it, the program would have to be significantly enhanced.

Sheriff Carr noted that the long range plan of the Sheriffs' Departments taking over the court security of the District Courts would require a great commitment from the Legislature. Sheriff Carr indicated that in order to improve court security, it is going to be necessary to increase the salary rate for those positions in order to attract a different type of person to apply, along with better training and benefits.

Attorney General Ayotte stated that PSTC is not in a position to offer free service to the Court System at this point in time. The Attorney General indicated that if the court system provides the resources the Council would be receptive to providing the training. Sheriff Carr indicated that in the Sheriff's proposal all these items will be presented and that's why they have invited the Director, as his input is important in calculating costs and resources. Sheriff Prozzo agreed that the Council could not take on the training of Court personnel without additional finances. Sheriff Prozzo indicated that with financing there were other training options that could also be considered.

The Director indicated that the direction he was seeking at this meeting was if the Council were to become involved in the training and/or certification of this population was whether the Council would support this program to be pursuant to a job task analysis and not something dictated by AOC or the Supreme Court and that it be a defensible training program. Sheriff Prozzo felt that the Council did not need to take a position on this matter today other than that without an increase in funding the Council cannot take on this responsibility at this point. Sheriff Carr indicated he was suggesting his proposal for a year or two in the future and Sheriff Prozzo suggested that it be reviewed again at that point in time.

Previous and/or Unfinished Business

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

The Director reviewed the facts of this case. The Director outlined Daniel Yoder's request for reconsideration noting that there was no new evidence presented and the Mr. Yoder is asking for

reconsideration based on the record. Mr. Yoder's position is that something less than decertification is a more appropriate sanction in this case. The Director further noted that only those present for the January hearing should vote on this matter. The Council did not vote on this matter at the last meeting as it did not have a quorum with members present at that meeting. Therefore, this matter was tabled until the March meeting.

This matter was brought to the table for a vote. It was determined there was a quorum for this vote. Council members present at the January meeting and also present at this meeting were Sheriff Prozzo, Commissioner Wrenn, Chief Russell, Judge Roberts, Judge Champagne, Sheriff Carr and Attorney General Ayotte. On a motion by Chief Russell, seconded by Commissioner Wrenn to deny Mr. Yoder's request for reconsideration of the Council's decision, the Council voted unanimously to deny Mr. Yoder's request for reconsideration with Attorney General Ayotte abstaining from the vote.

New Business

Decertifications/Suspensions/Revocations/Surrenders

Stephen Beal, formerly of Lee Police Department for violation of 402.02 (a)(4), as a result of his conviction in Rochester District Court for DWI on December 30, 2005. Staff Exhibits are:

Exhibit A: Part-Time Officer Certification dated February 22, 2003

Exhibit B: Form G received June 24, 2005

Exhibit C: Police reports from Barrington Police

Exhibit D: Packet from Rochester District Court

Synopsis: Sergeant George Joy was on routine patrol in June 19, 2005 when he observed a swerving vehicle. He followed the vehicle and observed it speed up to 70 mph and slow down to 60 mph. It was also crossing over into the oncoming lane of traffic as well as crossing the white fog line.

After stopping the vehicle, the driver rolled down the window and Sgt. Joy immediately detected a very strong odor of alcohol. He observed Mr. Beal's eyes to be bloodshot and glassy and his speech was thick tongued. Mr. Beal admitted to drinking when he was asked.

When asked to exit and move to the front of the vehicle for field sobriety test, he used his truck for balance and started walking to the rear of the truck. He was redirected to the front, and swayed while he was standing. He failed all three tests.

Found guilty of DWI First Offense on December 30, 2005, fined 500.00 & 100.00 PA, license revoked for 9 months but may seek to have license reinstated after 90 days, and the Impaired Driver Intervention Program. He was sent a certified letter which was signed for on February 22, 2006. Cassandra Erickson indicated that Mr. Beal did call and asked if he had to be present for the hearing. She advised him that he did not, but the Council would possibly take action by either

suspending or decertifying him.

On a motion by Judge Champagne, seconded by Colonel Booth to decertify Mr. Beal, the Council voted unanimously to decertify Mr. Beal for violation of 402.02 (a)(4) as a result of his conviction in Rochester District Court for DWI on December 30, 2005.

Prior Training and Experience Requests

Full-Time

David J. Manch, Hinsdale Police Department

The Director outlined David Manch's request for prior training and experience. Of note in his background investigation is that there is a pending investigation in Vermont for falsifying a report and failure to adequately investigate. The Assistant Director called the Vermont State Police and was informed that the case had been referred to the Windham, Vermont County Attorney's Office but the sense was that they will not be bringing charges against him. On a motion by Judge Roberts to grant the PT&E request contingent upon verification from the Windham County Attorney's Office that no criminal charges will be filed, seconded by Commissioner Wrenn, the Council voted unanimously to grant Mr. Manch full-time certification contingent upon verification from the Windham County Attorney's Office and based upon successful completion of the medical, PT test, NH Law Package at the Full-Time Academy, and CPR/First Aid, if lapsed. The Council discussed the fact that if the verification from the Windham County Attorney's Office is not confirmed before the start of the New Hampshire Law Package at the Full-Time Academy, then Mr. Manch cannot take the class under PT&E. His department's only other option would be to send him to the entire Full-Time Academy or to have him wait until verification was received from Windham County to attend the Law Package under PT&E.

Matthew Morrison, Pelham Police Department

After the Director outlined **Matthew Morrison's** request for prior training and experience, on a motion by Commissioner Wrenn to accept staff recommendation, seconded by Chief Russell, the Council voted unanimously to grant Mr. Morrison full-time certification based upon successful completion of the medical, PT test, NH Law Package at the Full-Time Academy, and CPR/First Aid, if lapsed; Additionally the Council voted that Mr. Morrison must successfully complete Officer Survival, Motor Vehicle Stops, High Risk Motor Vehicle Stops and Simulations due to his limited experience.

Oake D. Carlson, Dover Police Department

The Director outlined **Oake Carlson's** request for prior training and experience, noting that he failed the PT test and will require an extension through the 141st. On a motion by Commissioner Wrenn to accept staff recommendation, seconded by Chief Russell, the Council voted unanimously to grant Mr. Carlson full-time certification based upon successful completion of the medical, PT test, NH Law Package at the Full-Time Academy, and CPR/First Aid, if lapsed.

Part-Time**Robert A. Hill, NH Department of Safety/Marine Patrol Bureau**

The Director outlined **Robert Hill's** request for prior training and experience for part-time certification. On a motion by Chief Russell, seconded by Judge Roberts, to deny his request for PT&E, the Council voted unanimously to deny Mr. Hill's request for prior training and experience for part-time certification and require him to attend the entire part-time school.

Requests for Extensions**Full-Time****Daniel J. Ball, Jr. Boscawen Police Department**

After the Director outlined the reason for the request for extension through the 141st Academy, on a motion by Commissioner Wrenn, seconded by Colonel Booth, the Council voted unanimously to grant the extension through the 141st Full-Time Academy to Officer Ball, Boscawen Police Department.

David E. Bourne. Holderness Police Department

After the Director outlined the reason for the request for extension through the 141st Academy, on a motion by Commissioner Wrenn, seconded by Colonel Booth, the Council voted unanimously to grant the extension through the 141st Full-Time Academy to Officer Bourne, Holderness Police Department.

Specialized Training Grants**Command Training Programs**

Salem Police Department. The Director outlined the request of the Salem Police Department to send **Lieutenant Shawn Patten** to the Massachusetts Police Leadership Institute's Program—"Training Police Managers to Manage Change" at the Lowell Police Training Center at Cross Point in Lowell, MA from April 10 – 21, 2006 at a cost of \$1,000. On a motion by Commissioner Wrenn, seconded by Chief Russell, the Council unanimously approved the grant request of the Salem Police Department for Lieutenant Patten.

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

Attorney General Ayotte asked for an update on the grant monies remaining. The Director advised her that there was approximately \$5000 left after last month's distribution of grants and the Council's decision was to dedicate that money to Command Training program requests but they had agreed they would also consider individual requests for training to other institutions.

Other Business

Guest Introduction

Sheriff Carr visited with the Police Chief of Jackson while at the Retreat and invited him to attend the Council Meeting at the Christmas Farm Inn. Police Chief Karl Meyers arrived at the Meeting as a guest and Sheriff Carr introduced him to the Council Members.

Fitness Testing Extension

Nashua Police Department. The Director outlined the extension request of **Officer Robert Powers** who requires a military extension. On a motion by Commissioner Wrenn, seconded by Colonel Booth, the Council unanimously granted Officer Powers the extension until he returns.

Legislation

The Director developed a Resolution on Legislation as directed by the Council which the Council reviewed, edited, and accepted as referenced below.

Resolution of the New Hampshire Police Standards and Training Council
March 28, 2006

By a unanimous vote of the New Hampshire Police Standards and Training Council at their meeting of March 28, 2006, they hereby resolve as follows:

1. The New Hampshire Police Standards and Training Council was created in 1971 with the purpose of providing consistent training standards for law enforcement officers throughout the State of New Hampshire.
2. The New Hampshire General Court created the Penalty Assessment Fund to provide these services at no cost to the State, County and local governments and taxpayers.
3. The Penalty Assessment Fund is the primary source of funding of the New Hampshire Police Standards and Training Council; and
4. The New Hampshire Police Standards and Training Council continues to be the single source of training and certification for law enforcement officers throughout the State; and
5. This training and certification is crucial to the public safety and public interest of the citizens of New Hampshire; and
6. SB-298 as amended by the Senate will result in an estimated loss of over \$400,000 per year in revenue to PSTC; and
7. Such a loss of funding will result in significant harm in the ability of the agency to provide training services to police and corrections officers in the future;

Then be it hereby resolved by the Police Standards and Training Council that we believe that it is in the best interest of the law enforcement community as well as the citizens of the State of New Hampshire if:

The New Hampshire Senate passes, and the Governor signs into law HB-1243 as amended by the House, and

The New Hampshire House of Representatives amends SB-298 to be consistent with HB-1243 as amended and passed by the House.

So resolved this 28th day of March, 2006.

Sheriff Michael Prozzo, Jr., Sullivan County, Chairman
Commissioner William Wrenn, New Hampshire Department of Corrections, Vice-Chairman
Attorney General Kelly Ayotte
Colonel Frederick Booth, New Hampshire State Police
Sheriff Scott Carr, Carroll County
Justice Norman Champagne, Manchester District Court
Chief Timothy Russell, Henniker Police Department
Justice Stephen Roberts, Dover District Court

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The text of the amendment to HB 1243 follows:

Penalty Assessment: Deposit of Funds. Amend RSA 188-F:31 to read as follows:

The clerk of each court shall collect the penalty assessment and shall transmit the amount collected under paragraphs I-III above to the State Treasurer for deposit in the following funds: The state treasurer shall deposit [65]75 percent of the amount collected in the police standards and training council training fund[, 20]and 25 percent in the victims' assistance fund[, and the remainder in the general fund].

Effective Date: This act shall take effect on July 1, 2007.

On a motion by Judge Roberts, seconded by Chief Wrenn, the Council voted unanimously to adopt the edited Resolution on Legislation prepared by the Director for distribution. The Council agreed that a meeting should be set up with representatives of the Chief's Association, Patrolmen's Association, Trooper's Association, SEA, LGC, and Sheriff's Association to create a united front on this issue. The Director agreed to try to set up a meeting for 10 am on Monday, April 3, 2006. Chief Russell agreed to contact the Chief's Association and the LGC. Commissioner Wrenn agreed to call the SEA; Sheriff Carr will contact the Sheriff's Association and the Director will contact the Coalition, Police Association and Troopers Association. The Attorney General asked the Director to copy Ann Rice in her Department.

Non-Smoking/Non-Tobacco Campus

Commissioner Wrenn brought up the issue of staff and students smoking in the front of the PSTC building. Chief Russell also was adamant about smoking on campus and he felt the PSTC campus should be a smoke-free zone or at the very least smoking should have a designated area at the back of the facility only. The Director indicated that the Assistant Director was working on the

development of a policy. On a motion by Commissioner Wrenn that the PTSC campus be tobacco-free as of May 1, with tobacco use being permitted in the back of the building until that date, seconded by Chief Russell, the Council went into further discussion of the matter.

Chief Wrenn indicated if a designated area for smoking was going to be set up then it can't be near the doorways or in view of the public; otherwise, it should be a non-smoking campus. Colonel Booth had concerns that if you make if a smoke free environment, the employees will have to leave the campus to smoke, they could injure themselves while off campus and what do we do about the visitors and students who are on campus. He feels it would be more appropriate to have a designated area to smoke for those who are addicted to the habit.

Chief Wrenn agreed to withdraw his motion. Then on a motion by Colonel Booth that effective April 15, 2006, the PSTC indoor facility will become a smoke-free, tobacco-free environment and that a designated area outside, not in the doorways, and out of the public's view will be provided for tobacco use, seconded by Commissioner Wrenn and unanimously approved by the Council.

General Discussion

Suspension Letters

The Council decided that it does not want the Director to continue to send out the suspension letters requesting information regarding the details of officer suspensions. Form B will continue to be submitted.

The Council discussed the matter of those letters that currently exist in officers' files as they do not want that information disclosed and want to know if that information can be removed from the files. The Council asked Assistant Attorney General Nancy Smith, PSTC Counsel, to research that question and get back to the Council.

Articulate Suspicion

Chief Russell asked why there hasn't been an issue of ***Articulate Suspicion*** distributed. The Director indicated that it will be distributed on a quarterly basis now and that an issue should be forthcoming within the next two weeks. The Director indicated that with the workload being what it is, it is not feasible to produce it on a monthly basis.

Next Meeting Date/Adjournment

After scheduling the next Council Meeting date for 9:00 a.m., Tuesday, April 18, 2006, in the John D. Morton Conference Room, the Council unanimously voted to adjourn the meeting at 1:35 p.m., on a motion by Commissioner Wrenn and seconded by Colonel Booth.

Chairman Michael L. Prozzo, Jr.