

Minutes

March 25, 2008

The 370th meeting of the New Hampshire Police Standards and Training Council was called to order at 9 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: Associate Justice Stephen H. Roberts; Chief Gregory Dodge, Epping Police Department; Sheriff of Carroll County, Scott Carr; Commissioner William L. Wrenn, Jr., New Hampshire Department of Corrections; Major Susan Forey, designee of Colonel Frederick H. Booth, New Hampshire State Police; Chief Michael J. Magnant, Portsmouth Police Department; Chief Timothy Russell, Henniker Police Department; and, Deputy Attorney General Bud Fitch, designee of Attorney General Kelly Ayotte.

Members Absent: Associate Justice Norman E. Champagne, Vice Chancellor Charles Annal, and Chief Peter Morency did not attend.

Staff Present: Director Donald L. Vittum, Assistant Director Robert B. Stafford, Jr., Mr. Keith H. Lohmann, Investigative Paralegal Anne Paquin, Captain Kimberly Roberts, Lieutenant Mark Varney, Chief Timothy Merrill, Captain Benjamin Jean, and Council Secretary Kathryn Day.

Guests Present: Attorney Mark Broth, Devine, Millimet & Branch, P.A., Manchester; Police Chief Philip Consentino and Mr. Bill Anderson of Atkinson; Officer Catherine Laurie of Claremont; Police Chief Stephen C. Savage of Plaistow; and, Police Chief Chester Murch of Lee.

Call to Order

Chairman Prozzo called the meeting to order at 9 a.m.

Approval of Minutes

The Council, with the exception of Chief Dodge who chose to abstain, unanimously approved by a voice vote the Minutes of February 19, 2008, following a motion made by Commissioner Wrenn and seconded by Chief Russell.

Director's Report

The Director's written report, mailed under separate cover, was accepted as submitted. There were no questions and no additional remarks by the Director.

Previous and/or Unfinished Business

Status Report on the 145th Session of the Full-Time Academy

The graduation for the 145th Academy will be held on Friday, March 28. Sixty-four officers will receive full-time certification; one recruit left the academy in Week #11.

New Business

Eligibility

NONPUBLIC SESSION – Plaistow Chief of Police Stephen C. Savage

Upon a motion by Commissioner Wrenn, seconded by Judge Roberts, and after a roll call vote of the Council was unanimous, the Council entered into a nonpublic session at 9:07 a.m. to discuss a personnel matter.

Commissioner Wrenn moved to seal the minutes of the nonpublic session. Judge Roberts seconded the motion that carried upon a unanimous voice vote of the Council.

At 9:31 a.m. a motion by Commissioner Wrenn to exit the nonpublic session was seconded by Chief Dodge. The roll call vote of the Council was affirmative without exception.

The Council agreed that no action was necessary on this request at this time. Deputy Attorney General Fitch has been tasked to review Pol 301.05 (g) (9) and draft a proposed rule change for the April Council meeting.

Decertification (Hearings)

NONPUBLIC SESSION – Officer Catherine Laurie, Claremont Police Department

Chairman Prozzo informed the Council that a Motion to Dismiss had been filed and was made available only just before the Council meeting. This document was distributed and reviewed. Director Vittum commended both Mr. Lohmann and Investigative Paralegal Anne Paquin for managing this matter quickly and efficiently on short notice.

Attorney Mark Broth requested that the matter be held in nonpublic session. Attorney Broth confirmed that he had reviewed the Council rules concerning hearings and stated his full name and affiliation: Attorney Mark Broth of Devine, Millimet & Branch, P.A., in Manchester.

These Council members stated that, although they were acquainted with Officer Laurie, they felt they could remain impartial and objective and were willing to participate in the hearing, barring any objections from Officer Laurie or Attorney Broth: Commissioner Wrenn, Chief Russell, and Chairman Prozzo. There were no objections. Major Susan Forey recused herself based on her relationship with the arresting agency.

Commissioner Wrenn moved to enter into nonpublic session. A roll call vote of the Council, following a second by Chief Russell, was unanimously in favor. The nonpublic session commenced at 9:35 a.m.

Sheriff Carr put forth a motion to seal the minutes of the nonpublic session. The motion, seconded by Chief Dodge, passed on the unanimous voice vote of the Council, with Major Forey abstaining.

The nonpublic session concluded at 11:05 a.m., following a motion by Commissioner Wrenn, seconded by Judge Roberts, and confirmed by a unanimous roll call vote, excepting Major Forey.

Concerning the Motion to Dismiss, Chief Magnant moved that the Council deny the request and this motion was seconded by Sheriff Carr. The motion passed on a voice vote without opposition, with the exception of Major Forey, who had recused herself from the hearing.

Chief Magnant then voiced this motion: That in the matter of Catherine C. Laurie, in reference to her conviction for negligent driving and speeding, the Council suspend her certification for a period of 60 days, effective March 25, 2008. Commissioner Wrenn seconded this motion. The voice vote of the Council was unanimously in favor, with Major Forey abstaining.

Officer Laurie was informed that she would receive written notification of the disposition of the hearing in a letter from the Director of Police Standards and Training.

NONPUBLIC SESSION: Atkinson Police Chief Philip Consentino

Chief Consentino was present and accompanied by Mr. Bill Anderson, Assistant Director of Elderly Affairs in Atkinson.

Chairman Prozzo stated the issue at hand was action being considered by the Council following a compliance audit at the Atkinson Police Department. The Police Standards and Training Council is represented in this matter by Mr. Keith Lohmann. The Chairman explained that, since this is a formal hearing, Chief Consentino has the right to have an attorney present and a court stenographer present at his own expense; Chief Consentino declined and stated further that he was not represented by an attorney at this time. Chief Consentino acknowledged receiving and reviewing the Council's hearing procedures and he had no questions about how the hearing would be conducted.

Because this hearing involves personnel matters or matters that could affect a person's character or reputation, the Chairman informed Chief Consentino that he had the right to have the hearing held in a nonpublic session; Chief Consentino stated that he did indeed desire the matter be heard in nonpublic session.

Commissioner Wrenn moved that, due to personnel matters, the Council enter into nonpublic session; the motion was seconded by Chief Dodge. A roll call vote of the Council was unanimous and the nonpublic session commenced at 11:10 a.m.

Upon a motion by Chief Russell, seconded by Sheriff Carr, the Council voiced their unanimous approval for sealing the minutes of the nonpublic session.

The nonpublic session concluded at 12:12 p.m. after a roll call vote of the Council unanimously confirmed a motion by Sheriff Carr, seconded by Chief Russell, to exit the nonpublic session.

Upon returning to public session, Deputy Attorney General Bud Fitch put forth the following motion: That the Council issue an order that requires a letter of reprimand to Chief Consentino for failure to use due diligence in ensuring that proper documentation existed when he certified to the Council that that documentation of training did exist, but we conclude that his conduct does not reach the level of willful misconduct and he is not further disciplined. We further require that he comply with the plan that he has outlined to the Council orally in his testimony to the Council in terms of the remedial steps that he is going to carry out going forward, and we ask that the Police Standards and Training Council staff checks with him after one year to confirm that that has happened.

Chief Russell moved to second this motion. After hearing no discussion, the Chairman called for a voice vote of the Council; the motion passed without opposition.

CONSENT CALENDAR

The following requests for certification were considered based on **Prior Training and Experience (PT&E)**:

Full-Time

Officer Donald P. Broughton, Hooksett Police Department

(DOH 01/21/08) Requesting consideration for full-time certification based on prior training and experience. Staff recommends granting certification upon successful completion of the NH Law Package of the Full-Time Academy, medical exam, fitness test, and first aid/CPR certification, if lapsed.

Officer Robert C. Corwin, Derry Police Department

(DOH 02/08/08) Requesting consideration for full-time certification based on prior training and experience. Staff recommends granting certification upon successful completion of the NH Law Package of the Full-Time Academy, medical exam, fitness test, and first aid/CPR certification, if lapsed.

Officer Thomas Hughes, Concord Police Department

(DOH 02/24/08) Requesting consideration for full-time certification based on prior training and experience. Staff recommends granting certification upon successful completion of the NH Law Package of the Full-Time Academy, medical exam, fitness test, and first aid/CPR certification, if lapsed.

Officer Stephen Phillips, Derry Police Department

(DOH 02/08/08) Requesting consideration for full-time certification based on prior training and experience. Staff recommends granting certification upon successful completion of the NH Law Package of the Full-Time Academy, medical exam, fitness test, and first aid/CPR certification, if lapsed.

Officer Francis T. Sullivan, Alton Police Department

(DOH 10/28/07) Requesting consideration for full-time certification based on prior training and experience. Staff recommends granting certification upon successful completion of the NH Law Package of the Full-Time Academy, medical exam, fitness test, and first aid/CPR certification, if lapsed.

CONSENT CALENDAR (cont'd)

Officer Christopher Worthington, Portsmouth Police Department (DOH 03/17/08)

Requesting consideration for full-time certification based on prior training and experience. Staff recommends granting certification upon successful completion of the NH Law Package of the Full-Time Academy, medical exam, fitness test, and first aid/CPR certification, if lapsed.

Part-Time

Officer Patrick Szymkowski, East Kingston Police Department (DOH 11/26/07)

Requesting consideration for part-time certification based on prior training and experience. Staff recommends granting certification upon completion of the NH Law Package, firearms, and driving in the next Session of the Part-Time Police Academy. (This officer will also require an extension under Pol 302.02)

The following **Requests for Extension** were submitted for consideration:

Full-Time Police Officer

Extensions for these full-time officers were granted until fitness testing for the requested Academy and, if testing is successful, through the end of the requested Academy. The Session dates are: 146th Academy 04/07/08-06/27/08 (fitness test 3/18/08); 147th Academy 08/25/08–11/14/08 (fitness test 08/11/08).

Officer Lawrence W. French, Enfield Police Department

(DOH 11/30/07 **not part-time certified**) requests extension to the **147th Session** of the Full-Time Police Academy. Staff recommends granting the extension and that the officer work under continued supervision by a certified full-time officer.

Officer Blaine R. Hall, Northumberland Police Department

(DOH 05/12/07) requests extension to the **146th Session** of the Full-Time Police Academy. Staff recommends granting the extension

Officer Daniel Gilman, Campton Police Department

(DOH 04/02/07, full time since 11/27/07) requests extension to the **147th Session** of the Full-Time Police Academy. Staff recommends granting the extension.

Officer Garth G. Hurlbert, Colebrook Police Department

(DOH 07/16/07)) requests extension to the **146th Session** of the Full-Time Police Academy. Staff recommends granting the extension.

Part-Time Police Officer

253rd Part-Time Officer Academy 05/03/08 – 08/01/08

Officer Patrick Szymkowski, East Kingston Police Department

(DOH 11/26/07) requests extension through the end of the 253rd Session of the Part-Time Academy. This officer is enrolled for the next Academy and the extension is required because the start date exceeds the six-month period from date of hire. Staff recommends granting the extension.

CONSENT CALENDAR (cont'd)

Corrections Officer/PPO

88th Corrections Academy 05/03/08 – 06/27/08 (fitness test 04/24/08)

Probation/Parole Officer Danel A. Bean, NH Department of Corrections (appointed PPO on 7/6/07) requests extension through the end of the 88th Corrections Academy.

Corrections Officer Michael J. Kiluk, NH Department of Corrections (DOH 10/12/07) requests extension through the end of the 88th Corrections Academy. Staff recommends approving the extension through the end of the requested Academy.

Corrections Officer Paul K. Kimani, NH Department of Corrections (DOH 11/09/07) requests extension through the end of the 88th Corrections Academy. Staff recommends approving the extension through the end of the requested Academy.

Corrections Officer Shawn C. Parker, NH Dept. of Corrections (DOH 11/26/07) requests extension through the end of the 88th Corrections Academy. CO Parker has been scheduled for the 88th Corrections Academy and the start date exceeds the six-month period from his date of hire. Staff recommends approving the extension.

Corrections Officer Christopher A. Ziemba, NH Dept. of Corrections (DOH10/26/07) requests extension through the end of the 88th Corrections Academy. Staff recommends approving the extension.

Training Grant Requests

The Council reviewed the staff recommendations to approve these requests to attend
Command Training Programs:

Plymouth State University Police Department requests approval to send Lieutenant Roland P. Chierichetti to the Command Training Series Mid-Management course at Roger Williams University, Portsmouth, Rhode Island, for two one-week sessions, beginning March 31 and ending April 11, 2008. **Amount: \$1,000.00**

Seabrook Police Department requests approval to send Sergeant John Wasson to the Command Training Series First Line Supervisor course at Roger Williams University, Portsmouth, Rhode Island, for two one-week sessions, beginning April 20 and ending May 2, 2008. **Amount: \$1,000.00**

Berlin Police Department requests approval to send Sergeant Richard A. McClure to the Command Training Series First Line Supervisor course at Roger Williams University, Portsmouth, Rhode Island, for two one-week sessions, beginning April 20 and ending May 2, 2008. **Amount: \$1,000.00**

Berlin Police Department requests approval to send Corporal Kerry P. Theriault to the Command Training Series First Line Supervisor course at Roger Williams University, Portsmouth, Rhode Island, for two one-week sessions, beginning April 20 and ending May 2, 2008. **Amount: \$1,000.00**

CONSENT CALENDAR (continued)

Also submitted for consideration were these requests for **Other Training**:

Temple-Greenville Police Department requests approval to send Chief James A. McTague to Chris Ryan's PIO Boot Camp at the Ocean City Police Department, Ocean City, Maryland, for one week beginning April 20, 2008. **Amount: \$922.19**

Marlborough Police Department requests approval to send Detective Steven A. LaMears to a two-day training program, Property Room Management, sponsored by and held at the Manchester Police Department, Manchester, Connecticut, on April 28 and 29, 2008. A similar Police Standards and Training course was held in November of 2007. **Amount: \$337.25**

Brookline Police Department requests approval to send Sergeant Michael S. Kurland to the Supervisory Leadership Institute one-week program for law enforcement executives offered at the Everett Police Department, Everett, Massachusetts, beginning March 31, 2008. **Amount: \$433.33**

Deputy Attorney General Fitch moved that the Council approve the items on the Consent Calendar. The motion, seconded by Sheriff Carr, carried without opposition on a voice vote.

Ongoing 3-Year Fitness Testing

CO Stacy L. DeGeorge, NH Department of Corrections requests extension for medical reasons through June 30, 2008

CO Wayne Bugbee, NH Department of Corrections requests extension for medical reasons through June 30, 2008

Part-Time Officer Christopher Dolloff, Bristol Police Department requests extension for medical reasons through June 30, 2008

Officer Michael R. Beaton, Carroll Police Department requests extension for medical reasons through June 30, 2008

Part-Time Officer Peter Crowell, Sunapee Police Department requests extension for medical reasons through June 30, 2008

Sheriff Carr moved that the Council approve the recommendation of Mr. Lohmann to grant the requested fitness testing extensions. After a second by Chief Dodge and with Commissioner Wrenn abstaining, the Council rendered a unanimous voice vote in the affirmative.

Request for Suspension

As a result of the Show Cause Orders issued at the March Council meeting, one outstanding Order was noted by Mr. Lohmann: Jolene Castle of the Hillsborough County Sheriff's Department. Deputy Castle submitted no paperwork and she contacted Mr. Lohmann on March 24 to request an extension.

Deputy Castle was instructed to submit a written request and this was received by fax on March 25. Mr. Lohmann informed Deputy Castle that the request would be submitted and reviewed with the Council.

Deputy Castle's fitness test was scheduled for March 22; she was unable to keep this appointment. Deputy Castle was not available to attend today's hearing due to work obligations. Mr. Lohmann inquired why she was not able to pass the test all during 2007 and he received no response. She was told that if the Council declined to grant her an extension they would likely suspend her certification until such time as she has passed the test. This is what the statute calls for.

Director Vittum recommended Deputy Castle's certification be suspended until she passes the test. Commissioner put forth a motion to support the Director's recommendation effective March 25, 2008. The motion, seconded by Chief Dodge, was unanimously approved by a voice vote of the Council.

Other New Business

Request of Lee Chief of Police, Chester Murch

Chief Chester Murch of the Lee Police Department appeared before the Council to request a waiver on the requirement to file paperwork for attendance at the Academy no later than 14 days prior to the date of the entrance fitness test for the requested Academy.

Chief Murch stated that his staff of seven officers was reduced to six officers at the end of 2007. Another officer left for a better opportunity with another agency, after the hiring process for the first opening was started. Currently the department has five full-time officers and has been working to fill the vacancies in the department since January. The Chief submitted entrance paperwork for a candidate that received a conditional offer who started working on March 17 for the Lee Police Department and would like the Council to grant a waiver that would allow this officer to attend the 146th Session; the deadline for applying for the 146th Session was March 3. The Chief's request is based upon the fact that there are fewer enrollments than the maximum of 60 recruits and due to the hardship placed on the Lee Police Department having to operate with only five full-time officers, while dedicating the resources needed to work during the coming months on attaining CALEA certification.

Director Vittum voiced strong opposition to the request, stating that the deadline for paperwork to be received for entrance to the 146th Academy was March 3, with the entrance fitness test administered on March 17. The staffing issues for the Lee Police Department and the current class size have no bearing on the deadline. All law enforcement agencies were notified of the 14-day rule in a mass mailing that announced the adoption of the Entrance Fitness Procedure in May 2007. The 14-day rule instituted by the Council in May 2007 has been applied consistently and fairly, and the Lee Police Department was advised on March 7, 2008, that when their paperwork was received the deadline had passed and would, therefore, not be accepted.

In addition to publicizing the procedure through the mailing and in the Police Standards and Training Council newsletter during the past year, the procedure has since been incorporated into the Technical Assistance Manual and the changes have been discussed by the Director at monthly chiefs meetings over the past year.

Commissioner Wrenn stated that he had spoken with Chief Murch by telephone about the 14-day rule and suggested that, due to his extenuating circumstances and because Lee is a very small agency, he come before the Council and make his request. At that time, Commissioner Wrenn told Chief Murch that it was possible that the reason not all sixty slots in the Academy were filled could be due to other departments also not having met the requirements of the 14-day rule.

The Chairman felt that fairness to all agencies was the most important consideration and the primary reason for establishing the procedure in the first place. Chief Dodge moved that the Council deny Chief Murch's request for an exception to the 14-day rule; Sheriff Carr seconded the motion. The Council decided in favor of the motion in a unanimous voice vote.

Other Business

Rules Revision – Part Pol 100 – Mr. Keith Lohmann

The Council was asked to approve the final proposal for revisions to Pol 101.05, 101.14, 101.17, 101.24, 101.25, 101.30, and 101.35 as presented. Mr. Lohmann has received comments back from JLCAR on Part Pol 100, and these recommendations have been incorporated. Mr. Lohmann described the most recent changes as very minor, with the JLCAR recommendations being the only changes made from the initial proposal which the Council has already approved. The most significant change is for the definitions for "agency" and "hiring authority"; Deputy Attorney General Fitch had advised that these definitions be more clear. Other comments received for the next two parts of the Rules need further review and will be presented for approval in April, as these changes are more substantial.

Deputy Attorney General Fitch moved that the Council accept the final proposal for revisions to Part Pol 100. A second by Commissioner Wrenn and a unanimous voice vote of the Council carried the motion.

Class sizes in the Part-Time Academy – Director Vittum

This discussion was deferred to the April Council meeting. A minimum class size will be recommended and justified based upon cost factors for providing 200 hours of instruction. More research is needed to project how a minimum class size of 20 could be managed.

Status of the 146th Full-Time Police Academy – Captain Kimberly Roberts and Lieutenant Mark Varney

The start date for the next Academy is April 7, 2008; graduation for that class will be on June 27, 2008.

Captain Roberts stated that a total of 55 full-time police “students” participated in the entrance fitness test for the 146th Academy. Of those 55 tested, 48 have successfully passed the entrance PT on their first attempt. Of the nine failures, five were due to blood pressure issues; four of these individuals received further clearance from their physicians and passed the PT on their second attempt. Two of the nine failures were attributed to injuries and two were exercise failures – one failed the bench press and the other, sit-ups.

A total of 10 sit-in students were tested. Of those 10, one exercise failure resulted from the bicycle test; one blood pressure failure received further clearance from his physician, and on his second test he failed the run. Director Vittum commented that the failure on the Aerodyne bicycle was an outcome of a special exception granted by the Council to allow the substitute test. Another who originally failed the blood pressure screening subsequently had to fly out of state due to a family emergency; his second PT has been scheduled for March 26.

The Director noted that this individual had submitted all paperwork on time and completed, making it reasonable and appropriate to give special consideration to accommodate the family emergency.

Chief Russell asked if the two injuries described by Captain Roberts were a direct result of the fitness testing. Captain Roberts responded that one student had complained of stomach pain after the sit-ups and another student complained of arm pain after the pushups.

Changes to the Technical Assistance Manual – Captain Kimberly Roberts

Director Vittum noted that many of the changes were minor and mostly related to how recruits and staff communicate verbally and otherwise. Other changes were grammatical corrections and wording changes made to reflect what Captain Roberts described as “our current way of doing business.” Major Stafford stated that the changes were intended to begin with the next Academy.

Captain Roberts detailed each of the changes in the current revision, including:

- Section C2.b. was added that requires that the student will not take the final exam until they successfully complete all classes.
- “Overhead transparencies” was updated to say “PowerPoint”
- A section pertaining to recruit manuals was removed. These manuals are no longer distributed.
- A vague reference to a uniform offense (“holes”) has been removed.

- Different types of exercises have been added to the section that addresses discipline. A definition of “motivational time” has been included.
- A reporting format has been provided for responding to an Incident Memorandum.
- All references to ashtrays have been removed.
- Section D22. Telephone Calls has been revised to clarify expectations regarding cell phone usage within the facility.
- Section D42. Personal Computers has been added to address expectations for how these devices can be used within the facility and requiring staff to approve uses other than word processing/note-taking.
- Cell phones and computers are to remain in your vehicle until staff instructs you to retrieve them.

... and other wording changes and minor corrections that update language about technology (i.e., “computer diskettes” has been changed to “any other storage media”).

Commissioner Wrenn moved that the Council approve the Administrative Rules, Training Rules, and Technical Assistance Manual revision dated March 2008; Sheriff Carr seconded the motion. Chairman Prozzo praised the work done on the revisions.

Director Vittum noted that Chief Timothy Merrill, who is now with our staff and working on compliance issues and education, will be helping to formulate the manual and checklist for new police chiefs recommended by Chief Magnant.

The motion on the table was approved by a unanimous voice vote.

Council and Staff 2008 Annual Retreat

The Director announced that the location for this year’s retreat is the Town and Country Motor Inn in Gorham, New Hampshire. A roundtable exercise on Day 1 will focus on the responses received from law enforcement agencies throughout the state to the customer satisfaction survey that was distributed in February. In addition to the Council members and staff, we have invited a small number of sheriffs and police chiefs to participate. There is also a possibility that Governor Lynch will join us on April 14. The day’s activities will begin at 10 a.m.

The fee for a proposed facilitator has been negotiated to a more affordable amount, compared with the initial quote of \$25,000.

Donation Acceptance

Chief Dodge seconded a motion by Commissioner Wrenn to accept the donation of a complete Red Man suit and complementary equipment from the New Hampshire Local Government Center. The Council unanimously supported the motion on a voice vote.

Next Meeting Date/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday, April 15, at nine o'clock in the morning, at the Town and Country Motor Inn in Gorham, New Hampshire.

Upon a motion by Sheriff Carr, seconded by Chief Russell, the Council voted unanimously to adjourn the meeting at 12:55 p.m.

Respectfully submitted,

Chairman Michael L. Prozzo, Jr.