

## *Minutes*

*September 22, 2009*

### ***Call to Order***

The 388<sup>th</sup> meeting of the New Hampshire Police Standards and Training Council was called to order at 9:02 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.

NOTE: Sheriff Foote arrived at 9:04 a.m. and Commissioner Wrenn arrived at 9:05 a.m.

***Members Present:*** Chairman Michael Prozzo, Sheriff of Sullivan County; Chief Gregory C. Dodge, Epping Police Department; Commissioner William L. Wrenn, Jr., New Hampshire Department of Corrections; Associate Justice Norman E. Champagne, Manchester District Court; Associate Justice Stephen H. Roberts, Dover District Court; Major Susan Forey, designee of Colonel Frederick H. Booth, New Hampshire State Police; Chief James Sullivan, Hampton Police Department; Chief Anthony Colarusso, Dover Police Department; Vice Chancellor Charles Annal, New Hampshire Community College System; Richard Foote, Sheriff of Cheshire County; and, Attorney General Michael Delaney.

***Members Absent:*** Chief Peter Morency, Berlin Police Department

***Staff Present:*** Director Donald Vittum, Captain Benjamin Jean, Captain Robert Stafford, Chief (ret.) Timothy Merrill, Lieutenant Mark Bodanza, Program Assistant Erika Parent, and Council Secretary Kathryn Day.

***Guests Present:*** Officer Michael Capsalis of the Northwood Police Department and Attorney Steven Shadallah.

### ***Approval of Minutes***

Chief Dodge moved for the Council to approve the minutes of August 25, 2009. Following a second by Chief Sullivan, the voice vote of the Council was unanimous in support, 9-0.

NOTE: Commissioner Wrenn and Sheriff Foote were not present for this vote.

### ***Director's Report***

There were no comments or questions on the Director's report, and the Director had no additional remarks.

### ***Previous and/or Unfinished Business***

#### **Rule change/clarification proposed re: Pol 401.01 Lapse in Service**

Director Vittum stated that the Legal Bureau is working with Nancy Smith of the Attorney General's Office on a proposed Rule change that will be presented to the Council for approval at a future meeting. The Council agreed at their meeting on August 25, 2009, that clarifying language should be added to communicate the Council's intention for officers subject to recall after an involuntary furlough/layoff to have their certification reinstated without conditions if they become re-employed by the same agency within three years.

### ***New Business***

#### **Decertification Hearing**

#### **NONPUBLIC SESSION: Officer Michael Capsalis, Northwood Police Department**

Officer Michael Capsalis of Northwood Police Department appeared with Attorney Steven Shadallah for a hearing pursuant to Pol 402.02 (a) (4). Chairman Prozzo reviewed the hearing protocol and Attorney Shadallah stated that Officer Capsalis would exercise his right for the hearing to be held in nonpublic session.

Therefore, Chief Dodge moved that the Council enter into a nonpublic session, pursuant to RSA 91-A:3, II (a). After a second by Chief Colarusso, the roll call vote of the Council was unanimous in favor, 11-0. The nonpublic session commenced at 9:06 a.m.

Chief Dodge, seconded by Justice Roberts, moved to seal the minutes of the nonpublic session, as provided in RSA 91-A:3, II (c). The Council voiced their unanimous agreement.

Chief Dodge further moved that the Council exit the nonpublic session. Following a second by Commissioner Wrenn, the Council supported the motion, 11-0. The nonpublic session concluded at 9:34 a.m.

Commissioner Wrenn requested that the members be given additional time to review exhibits provided by Attorney Shadallah, in order to reach a more informed decision. Chairman Prozzo agreed to delay Council action until the meeting scheduled for October 27, 2009, if the body supported taking the matter under advisement.

Commissioner Wrenn moved that the Council take under advisement the matter of Officer Michael Capsalis. Hearing no discussion after a second by Justice Champagne, the Chairman called for a voice vote and the motion carried, 11-0.

### **CONSENT CALENDAR**

Upon a motion put forth by Commissioner Wrenn and seconded by Vice Chancellor Annal, the Council voted to unanimously approve staff recommendations for all items presented on the Consent Calendar.

One request for full-time certification based on prior training and experience was approved.

**Chief David B. Goldstein, Franklin Police Department** will be granted full-time certification based upon prior training and experience upon successful completion of the entrance fitness test, medical exam, the Law Package of the Full-Time Police Officer Academy, and CPR/First Aid certification, if lapsed.

The following officers were granted extensions:

**Officer Mark R. Ashland, Canterbury Police Department**  
through the end of the 151<sup>st</sup> Full-Time Police Officer Academy (April 9, 2010)

**Officer Christopher D. Ball, Plymouth Police Department**  
through the end of the 151<sup>st</sup> Full-Time Police Officer Academy (April 9, 2010)

**Deputy Nina M. Camelio, Hillsborough County Sheriff's Office**  
through the end of the 151<sup>st</sup> Full-Time Police Officer Academy (April 9, 2010)

**Officer Brandy N. Enis, Laconia Police Department**  
through the end of the 151<sup>st</sup> Full-Time Police Officer Academy (April 9, 2010),  
with the stipulation that Officer Enis continue to work only in the direct presence  
of a certified officer

**Chief David B. Goldstein, Franklin Police Department**  
through the Law Package of the 151<sup>st</sup> Full-Time Police Officer Academy

**Officer Frederick A. Nicosia, Brookline Police Department**  
through October 14, 2009, at the conclusion of the two years following his date of  
hire as a full-time officer

**Officer Ernest A. Rousseau, Newbury Police Department**  
through the end of the 151<sup>st</sup> Full-Time Police Officer Academy (April 9, 2010)

**Officer Stephen A. Winter, Sandown Police Department**  
through the end of the 151<sup>st</sup> Full-Time Police Officer Academy (April 9, 2010)

**Officer Randall K. Avery, Plymouth State University Police Department** through the end of the 257<sup>th</sup> Part-Time Police Officer Academy (May 7, 2010) with the stipulation that **Officer Avery is restricted from patrol and law enforcement action until certification is granted. (Correction 01/28/10)**

**Officer Joshua C. Gaetz, Piermont Police Department** through the end of the 257<sup>th</sup> Part-Time Police Officer Academy (May 7, 2010) with the stipulation that Officer Gaetz continue working only in the direct presence of a certified officer.

**Deputy Kaleb B. Jacob, Hillsborough County Sheriff's Office** through the date of the fitness test for the 257<sup>th</sup> Part-Time Police Officer Academy on January 23, 2010.

Training grants were approved for two agencies:

**Newfields Police Department** was granted a maximum amount of \$1,000.00 for Lieutenant Anne M. Gould to attend the Command Training Series: Executive Development Course at Roger Williams University in Portsmouth, Rhode Island, beginning October 20, 2009.

**Wolfeboro Police Department** was granted a maximum amount of \$1,000.00 for Officer Roger Martel to attend the NRA Law Enforcement Tactical Shooting Instructor course at Sig Sauer Academy in Epping, New Hampshire, for five days beginning October 26, 2009.

**(END OF APPROVED CONSENT CALENDAR)**

*Other New Business*

**Brookline Police Department**

Chief Thomas Goulden appeared before the Council to request approval for Officer Frederick A. Nicosia, a part-time certified officer, to work more than 1,300 hours in 2009.

On the date of the entrance fitness test for the 150<sup>th</sup> Full-Time Police Academy, August 28, 2009, Officer Nicosia, although he had medical clearance to participate, was not able to successfully complete the test; specifically, he was not able to complete the run portion of the fitness test. A subsequent extension request to allow Officer Nicosia to remain employed as a full-time officer through December 2009 was submitted for the Council's approval at their meeting on September 22, 2009. Because Officer Nicosia's date of hire as a full-time officer is October 15, 2007, the Council granted the request for extension, but only through October 14, 2009, in accordance RSA 188-F:27, I. (See approved Consent Calendar above.)

Essentially, all hours worked since January 1, 2009, are counted, even though an officer may have been employed full time during the same twelve-month period. Because Officer Nicosia will be returned to part-time status when the current extension expires, and, because part-time officers are not permitted to exceed 1,300 work hours in any given calendar year, Chief Goulden was compelled to request the Council's approval for Officer Nicosia to exceed 1,300 work hours in 2009, with the anticipated overage being approximately 700 hours; consequently, Officer Nicosia would be able to work only up to 600 hours in 2010.

Officer Nicosia intends to participate in the entrance fitness test for the 151<sup>st</sup> Full-Time Academy that will be administered on December 14, 2009. Chief Goulden stated that, if the Council were to authorize an extension through December 2009 and Officer Nicosia cannot complete the entrance fitness test for the 151<sup>st</sup> Academy, Officer Nicosia would be required to resign his position as a full-time officer with Brookline Police Department. As a result, he would become unemployed, since Brookline PD does not have openings for part-time officers. Alternatively, if the Council were to give approval for Officer Nicosia to exceed the 1,300-hour limitation, Brookline PD would have the option to continue to employ him.

Director Vittum advised that the Council's policy of deducting hours worked in excess of 1,300 hours from the work hours in the subsequent year is intended to be a punitive measure only. Further, Pol 302.12 Limitation of Hours, Part-Time Officers states *(d) No hiring authority shall schedule an officer for further duty once it becomes aware by any means that the officer has exceeded the cumulative total hours*; if the Council were to waive the Rule this case, it would set an undesirable precedent concerning requests from others who may request to circumvent the Rule.

For discussion purposes, Vice Chancellor Annal put forth a motion for the Council to deny the request for Officer Nicosia to exceed 1,300 hours of work in 2009. Discussion ensued after a second by Chief Dodge.

Vice Chancellor Annal asked Chief Goulden to define what impact denying the request would have. Chief Goulden responded that as a result Officer Nicosia's employment with the Department and his full-time benefits would necessarily terminate on October 14, because he will have already worked 1,300 hours by that date in 2009. Also, Brookline Police Department would need to initiate the hiring process to fill the vacant full-time position.

Justice Champagne agreed with Director Vittum's contention that granting the request for unlimited part-time hours would be contrary to the intent of Pol 302.12 (d) and suggested that the Council granting an extension for longer than two years from the date of hire would effectively dilute the statutory requirements set forth in RSA 188-F:27, I. Justice Roberts agreed that the Council is not authorized to grant extensions longer than two years and granting the request for unlimited part-time hours in this case would set "an extremely bad precedent." When asked, Commissioner Wrenn responded that he could not recall a time when the Council had approved unlimited hours for any part-time officer who had not attended a full-time academy.

Hearing no further discussion, Chairman Prozzo called for the voice vote of the Council. Without exception, the members voted to deny the request.

### **Corrections Academy Curriculum Changes**

Director Vittum asked the Council to consider and approve changes proposed to the curriculum for the Corrections Academy that have been developed by Police Standards and Training Council staff in cooperation with the New Hampshire Department of Corrections.

The DOC requested that a four-week Academy for civilian staff be held from October 12, 2009, to November 6, 2009. The curriculum for the first four of the nine weeks of the 91<sup>st</sup> Corrections Academy has been modified to accommodate the training needs of DOC civilian staff. The last five weeks contains material taught only to Corrections and Probation/Parole Officers.

Specifically, the following changes will be implemented with the 91<sup>st</sup> Academy:

- **Computer Orientation (added 1.5 hours):** Since laptops are used for testing and study materials, computer orientation is needed. Recruits have varying degrees of computer skills and also must learn the procedures for downloading their study materials.
- **First Aid/CPR (added 4 hours):** The American Red Cross required that four hours be added to the curriculum.
- **Physical Fitness Training (removed 16.5 hours):** Fitness training is required for only Corrections and Probation/Parole Officers, and **not** for civilian staff members.
- **Study Techniques (added 2 hours):** This class will assist the recruits in preparing for subject matter testing.
- **Testing (added 11 hours):** The Corrections Academy previously used a module testing format. It has been determined that it is more defensible to test recruits on individual classes so that their mastery of specific subject matter was clear. In following the model of the Full-Time Police Officer Academy, more test-taking time was required to ensure recruits were taking no more than a maximum of three tests per day. In addition, because the recruits must be tested on classes attended in Week 4, we have scheduled two testing dates the following week.
- **Special Needs Inmates (removed 1.5 hours):** It was determined that the mental health issues covered in this class were more appropriate in conjunction with *Suicide Prevention*. Inmate medical issues also covered in this class were found to be more appropriately placed in Health Services Overview.
- **Suicide Prevention (renamed and added 0.5 hours):** This class will now be titled *Suicide Prevention and Behavioral Health Services* to reflect that it will discuss mental health diagnoses in more detail.

- **Interpersonal Communications (replaced by Verbal Judo; added 1.5 hours):** This unit is being replaced with *Verbal Judo* to have parity with what is taught in the Full-Time Police Officer Academy.
- **Warden's Panel (added 2 hours):** Because the civilian staff returned for the Warden's Panel and graduation on the last day of the full nine-week DOC Academy we have scheduled the Warden's Panel for the last day of 91<sup>st</sup> Academy.
- **Corrections in Criminal Justice (removed 2.5 hours):** This material has been converted to a computer-based class, because it is not a subject that requires interaction with an instructor, and the title has been changed to *Corrections: Yesterday and Today*.

Director Vittum added that Captain Stafford and Lieutenant Taylor will attend a one-week course to become certified Verbal Judo instructors. This training will cover material that relates specifically to corrections and techniques for handling confrontation, and their attendance will directly benefit our agency's mission of police training and training of corrections and probation/parole officers.

Chief Sullivan moved that the Council approve the proposed curriculum recommended by staff for the 91<sup>st</sup> Corrections Academy. Sheriff Foote seconded the motion and the Council voted unanimously in favor, 11-0.

### *General*

#### **Regional Training Report**

Director Vittum presented this informational report to keep the Council members abreast of training activities conducted at locations around the state. Lieutenant Bodanza has conducted a total of 18 regional training classes from April 21, 2009 to August 26, 2009. These additional opportunities for in-service training have been offered in response to feedback from our customers about their training needs.

The topic areas of these classes were:

- Standardized Field Sobriety Testing and Horizontal Gaze Nystagmus
- Advanced Roadside Impairment Detection Enforcement (A.R.I.D.E.)
- Legal Updates
- Motor Vehicle
- DRE (Drug recognition expert)

A total of 230 students attended these 18 classes. The total number of training hours from these 18 classes was 82 hours. The classes were held at NH State Police Troops A, B, E, and F; agencies in Portsmouth, Rochester, Hampton, Raymond, Wakefield, Nashua, and Rindge; and, in Grafton, Cheshire, and Rockingham County.

### **Chairman's Remarks**

Chairman Prozzo welcomed Attorney General Michael Delaney as the newest member of the Police Standards and Training Council, since being sworn by Governor Lynch last month. Attorney General Delaney attended his first meeting as a member of the Council today, September 22, 2009.

Chairman Prozzo referenced a meeting earlier this year with AG Delaney, Governor Lynch and fellow Council members at which they agreed to follow up on recommendations for the future funding of the Police Standards and Training Council. Director Vittum updated the progress on this effort, stating that he has collaborated with Department of Safety Commissioner Barthelmes and Assistant Commissioner Sweeney in the interim and he will be bringing their input to the Governor in the near future. Director Vittum thanked Attorney General Delaney for his involvement and support for these efforts during his tenure with Governor Lynch's office.

### ***Other Business***

### **SWAT/SOU Study Recommendations**

Commissioner Wrenn asked the Council to consider how they might act on the recommendations of the NTOA study of New Hampshire SWAT/SOU teams presented at the Council meeting on August 25, 2009. He recommended that they plan to discuss what model policies and training the Council might endorse and what role, if any, the Council should have in the oversight of these groups. He further requested that these discussions begin to take place at the next Council meeting on October 27, 2009. Chairman Prozzo instructed the Director to include this item on the next agenda.

### ***Next Meeting Date/Adjournment***

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday, October 27, 2009, at nine o'clock in the morning.

Upon a motion by Chief Dodge, seconded by Major Forey, the Council voted unanimously to adjourn the meeting at 10:01 a.m.

Respectfully submitted,

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Chairman Michael L. Prozzo, Jr.