

## *Approved Minutes*

*May 4, 2010*

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

The 395<sup>h</sup> meeting of the New Hampshire Police Standards and Training Council was called to order at 9:03 a.m. by Chairman Michael L. Prozzo, Jr., Sheriff of Sullivan County, at the Gregg Public Safety Academy in Littleton, New Hampshire.

***Members Present:*** Chairman Michael Prozzo, Sheriff of Sullivan County; Chief James Sullivan, Hampton Police Department; Associate Justice Stephen H. Roberts, Dover District Court; Associate Justice Norman E. Champagne, Manchester District Court; Chief Peter Morency, Berlin Police Department; Colonel Robert Quinn, New Hampshire State Police; Chief Anthony Colarusso, Dover Police Department; Chief Gregory C. Dodge, Epping Police Department; William L. Wrenn, Jr., Commissioner of the New Hampshire Department of Corrections; Richard Foote, Sheriff of Cheshire County; and, Deputy Attorney General Bud Fitch

***Members Absent:*** No representative from the Community College System of NH was present.

***Staff Present:*** Director Donald Vittum, Captain Benjamin Jean, Captain Mark Varney, Chief (ret.) Timothy Merrill, Lieutenant Mark Bodanza, Captain Thomas McCabe, Mr. Chris Collman, Investigative Paralegal Anne Paquin, and Council Secretary Kathryn Day

***Guests Present:*** Colonel Creig W. Doyle and Officer Randall K. Avery, Plymouth State University Police Department

### ***Chairman's Remarks***

Chairman Prozzo welcomed Colonel Robert L. Quinn, New Hampshire State Police, as a new member of the Council. Governor Lynch appointed Colonel Quinn as Director of the State Police in April 2010.

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

The Council was asked to adopt an amendment to the minutes of March 23, 2010, to correct the ending time of a nonpublic session in the matter of Chief Wade Parsons; the correct ending time is 10:50 a.m., not 12:15 p.m. as stated in the draft unapproved minutes.

Upon a motion by Commissioner Wrenn, seconded by Chief Dodge, the Council approved the minutes of March 23, 2010, as amended, in unanimous voice vote.

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

Chairman Prozzo asked the Director to update the Council members on the status of funding. Director Vittum explained that the Administrative Office of the Courts was seeking a portion of the Penalty Assessment Fund. Following the Director's meetings with police chiefs and sheriffs, a concerted effort was put forth to advocate before the House Finance Committee to preserve the PAF as a dedicated revenue source for Police Standards and Training. This issue is ongoing.

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

No items presented.

***New Business***

**Hearings**

**James Murphy, formerly of New Castle Police Department**

A hearing was convened for the Council to act on Mr. Murphy's certification pursuant to Pol 402.02 (a) (2) and (4) a. Theft.

NOTE: Deputy Attorney General Fitch was recused from this hearing.

Chief Dodge moved that the Council revoke the certification of James Murphy under Pol 402.02 (a) (2) and (4) a. Theft. The motion was seconded by Chief Morency:

Chairman Prozzo recognized Commissioner Wrenn, who asked if there had been any word from Mr. Murphy or from his attorney regarding the hearing. Director Vittum assured that proper notice had been served on Mr. Murphy at his current known address, Coos County House of Corrections, and that the Director was not aware of any communication from an attorney on behalf of Mr. Murphy.

Chairman Prozzo asked the staff to elaborate for the Council on the basis for the hearing. Lieutenant Mark Bodanza presented Exhibits A through J, L, M, N, Q, R, and the following synopsis:

**SYNOPSIS**

James Murphy was hired as a full-time police officer in New London 1983. Form A, Exhibit A.

He received his full-time certification on July 1, 1983. Certification granted, Exhibit B.

He remained employed in New Hampshire law enforcement in the towns of New London, Sunapee, Raymond, and New Castle, as well as the New Hampshire Marine Patrol. He served as the chief of police in Raymond from September 1993 until he was hired as the chief of police in New Castle on January 20, 1997. Exhibits C through J document the history of Mr. Murphy's employment in New Hampshire law enforcement.

On October 1, 2009, James Murphy was arrested by the Attorney General's Office for theft by unauthorized taking. Form G, Exhibit L.

On October 1, 2009, Chief Murphy resigned from the New Hampshire Marine Patrol. Form B, Exhibit M.

On October 9, 2009, a Form B was received from New Castle, indicating that there was an ordinary resignation by Chief Murphy from that agency. Form B, Exhibit N.

On November 4, 2009, a Grand Jury in Rockingham County indicted James Murphy on the charge of theft by unauthorized taking. Exhibit Q.

On March 22, 2010, James Murphy entered a Guilty plea into the indictment; he was sentenced to the House of Corrections for a period of twelve months, with 8 months suspended for good behavior for complying with the terms of the order.

Mr. Murphy was placed on probation for a period of two years and ordered to pay restitution in the amount of \$8,675.00 plus a 17 percent administrative fee. He is to participate meaningfully and complete any counseling, treatment and educational programs as directed by the correctional authority or Probation/Parole Officer. Included in the sentence is that Mr. Murphy agrees to be decertified as a police officer. Exhibit R.

Hearing no questions, Chairman Prozzo called for a vote on the pending motion. The motion carried 10-0, Deputy Attorney General Fitch abstaining.

### **Continuance**

A hearing scheduled pursuant to Pol 402.02 and 403.01, concerning a police chief submitting false documents regarding training and noncompliance with requirements for annual refresher training, is continued until June 22, 2010. Pursuant to RSA 91-A:3, II (a), this hearing is scheduled to be heard in nonpublic session.

### **PT&E Request – Part-time Certification**

#### **Chief Anthony Randall, Ashland PD**

The Council considered the request of Chief Anthony Randall for consideration for part-time certification based upon prior training and experience. The staff recommended to the Council that part-time certification be granted based on the Form A dated April 2, 2010.

Captain Mark Varney explained that Chief Randall completed all requirements for full-time certification except for one aspect of the exit fitness requirement, due to a medical issue. Specifically, he completed the entire program of the entire Full-Time Academy, with the exception of the 1.5 mile run at the 50<sup>th</sup> percentile established by the Cooper Institute. The Town of Ashland has advised that they will retain him as a part-time police chief and is requesting that, since Chief Randall has met all the requirements for part-time certification, that the Council consider granting him part-time certification based on that prior training.

Justice Roberts asked if Chief Randall is still seeking a waiver to perform the alternative Schwinn Air-Dyne bicycle test in place of the run. Captain Varney confirmed that this waiver was granted by the Council on March 23, 2010. The intent is for Chief Randall to perform the alternative test as soon as his physician allows; if successful, he will be granted full-time certification.

Commissioner Wrenn moved that the Council grant Chief Anthony Randall part-time certification based on prior training and experience; Chief Colarusso seconded the motion. Without further discussion, the Council approved the request, 11-0.

### **CONSENT CALENDAR**

The Council considered staff recommendations for items presented on the Consent Calendar. With a motion by Commissioner Wrenn and a second by Chief Colarusso, the Council approved all requests presented on the Consent Calendar, 11-0.

## **APPROVED CONSENT CALENDAR**

### **Requests for Extensions**

The following officers were granted extensions through the end of the 153<sup>rd</sup> Full-Time Police Officer Academy, contingent upon successful fitness testing on August 16, 2010:

**Officer Mark R. Ashland, Canterbury Police Department**

**Officer Wesley J. deSousa, Gilford Police Department**

**Deputy Scott A. Knox, Hillsborough County Sheriff's Office**

**Officer Erik A. Benoit, Sanbornton Police Department** with the stipulation that Officer Benoit continue working only under the direct supervision of a certified officer.

**Chief Jonathan Dickerson, Groton Police Department** with the stipulation that Chief Dickerson continue working only under the direct supervision of a certified officer.

**Officer David B. Scott, Barnstead Police Department** with the stipulation that Officer Scott continue working only under the direct supervision of a certified officer.

Extensions were granted for the following officers through the end of the 258<sup>th</sup> Part-Time Police Officer Academy, contingent upon successful fitness testing on July 31, 2010:

**Officer Michael T. Malone, Fremont Police Department** with the stipulation that Officer Malone continue working only under the direct supervision of a certified officer.

**Officer Jacquelyn A. Parker, Winchester Police Department** with the stipulation that Officer Parker continue working only under the direct supervision of a certified officer.

**Officer Shayna K. Whitcomb, Roxbury Police Department** with the stipulation that Officer Whitcomb continue working only under the direct supervision of a certified officer.

**(END APPROVED CONSENT CALENDAR)**

**Requests for Specialized Training Grant Funds**

Chief Morency, with a second by Sheriff Foote, moved that the Council approve two requests for specialized training grant funds, as recommended by staff. The motion carried on a voice vote, 10-0, with Chairman Prozzo abstaining.

**Concord Police Department** was granted \$183.33 for Detective Michael Guarino to attend the "Inside the Tape" homicide and crime scene management course at the Derry Police Department in Derry, New Hampshire for three days beginning June 8, 2010.

**Sullivan County Sheriff's Office** was granted \$363.00 for Deputy Thomas Cummings to attend a course sponsored by IACP, *Grants 101 – Making Dollars and Sense*, at the Farmington, Connecticut, Police Department on June 7 and 8, 2010.

***Other New Business***

**Other Requests for Extension to Complete an Academy**

The Council considered the staff's recommendation to approve a request for extension for longer than six months.

**Officer Casey B. Brennan, Belmont Police Department** requested an extension for longer than six months through the end of the 157<sup>th</sup> Full-Time Police Officer Academy (through May 1, 2012). Officer Brennan will be deployed with the US Army Reserves for an extended period of time.

Commissioner Wrenn moved that the Council grant the requested extension to Officer Casey Brennan. Following a second by Sheriff Foote, the voice vote of the Council was unanimous in support.

## **Request for Consideration**

### **NONPUBLIC SESSION: Plymouth State University Police Department**

Colonel Creig W. Doyle and Officer Randall K. Avery appeared before the Council to request consideration for reinstatement of Officer Randall's part-time police officer certification and a fitness testing exemption based on medical reasons.

Colonel Doyle stated that it was his desire for the matter to be held in nonpublic session.

Chief Dodge moved for the Council to enter into a nonpublic session to discuss personnel matters, as provided in RSA 91-A:3, II (a). Following a second by Chief Morency and a unanimous roll call vote, the nonpublic session commenced at 9:20 a.m.

Chief Dodge, with a second by Commissioner Wrenn, moved to seal the minutes of the nonpublic session. The voice vote of the Council was unanimous in favor.

Chief Dodge further moved that the Council exit the nonpublic session. Chief Morency seconded the motion and the Council supported the motion without exception. The nonpublic session concluded at 9:34 a.m.

Upon return to public session, Deputy Attorney General Fitch moved that the matter be tabled and that the Plymouth State University Police Department be invited to submit a supplemental request to the Director, in light of learning about the statute (RSA 188-F:26) and the limitations of waiver being tied to the ADA. Further, the Director shall forward this request to the Attorney General's Office for opinion of legal counsel to be considered at a future Council meeting.

Following a second by Commissioner Wrenn, the Council voted 11-0 in support of the motion to table.

### ***General (Discussion)***

#### **2010 Annual Planning Session on May 3, 2010**

Chairman Prozzo asked the Council to comment on topics raised at the annual planning session held at the Gregg Public Safety Academy in Littleton, New Hampshire, on Monday, May 3, 2010.

The Council was provided with copies of the evaluations completed by the 151<sup>st</sup> Academy recruits at the conclusion of their Academy. A recurring issue brought forth in these evaluations is the quality and selection of food provided for the recruits. Commissioner Wrenn suggested an evaluation of the food service provided to the Academy be done and communicated to the vendor. Captain Varney said that a better variety of healthy choices are included in the food selection now as a result of communication with the vendor. Council members agreed that it would be beneficial to offer nutrition counseling at the start of the Academy so that recruits in physical training will make informed choices and the Director said that he would try to implement this recommendation.

Justice Roberts asked if a survey of Academy graduates is done in the one or two years following their graduation date. For example, are the graduates asked what the Academy might have done better to prepare them for their careers? Director Vittum stated that such a survey has not been done, but he agreed that such a survey would be worthwhile and perhaps it could be accomplished in cooperation with local law enforcement agencies. However, individually contacting former recruits to conduct a follow-up survey one or two years following graduation may be problematic; home addresses are not updated, so the primary contact information is for the law enforcement agency where the officer is employed.

The Director informed the Council that evaluations submitted by recruits would be shared with them at the conclusion of each Academy going forward.

Chief Morency asked if the Council should make recommendations to law enforcement agencies on how to prepare their officers for the Academy. Director Vittum stated that standards of conduct for the duration of the Academy are explained and then stringently enforced and any issues are communicated to a recruit's chief law enforcement officer. Most often, the chief law enforcement officer will follow up with some form of counseling and the behaviors are curtailed.

Chairman Prozzo informed that a deputy sheriff currently attending the Part-Time Academy had commented to him that the program was probably one of the best he had ever seen.

Director Vittum stated that in 2011 the planning session would take place in the Keene area. This will allow local agencies from that area of the state to give input.

Ongoing physical fitness testing has been required for more than ten years. Chairman Prozzo said that some local agencies are providing incentives to their officers for staying fit.

Some Council members suggested that current certification in First Aid and CPR could be part of the requirements for entrance to the Academy. This way, the instruction time could be dedicated to other more critical subject matter, such as PBT training. First Aid and CPR and other training, such as NIMS, could be offered on line. Chief Sullivan suggested that if a prospective hire was not already First Aid/CPR certified, the hiring agency could either provide the training or require the job candidate to become certified as a condition of employment.

Justice Roberts recommended that the recruits be given more hours of instruction on courtroom demeanor, presenting evidence, and effective report writing. Rebutting effective cross-examination is another critical skill that should be a part of training. Captain Varney stated that Advanced Report Writing is offered at our regional sites as in-service training and recruits in the Academy practice this skill; however, the results of this training largely depend on the grammar skills each individual has already learned in their youth.

Colonel Quinn recommended that the Academy should emphasize driving skills. Unlike First Aid and CPR instruction, driving skill is critical and has an impact on every officer every time they are behind the wheel. Also, more practical time in officer survival training, PBT training and Intoxilyzer training would be a better utilization of class time than CPR, First Aid, NIMS.

The Council raised differences of opinion regarding in-service training. Some members felt that chief law enforcement officers were given too much latitude in approving what is acceptable training – too much of this training is completed on line; other members felt that the option to complete training on line with the approval from the chief of an agency worked well and was more accessible and more appropriate for the learning style of the new generation of law enforcement. And, local agencies are better able to accommodate on-line training courses with the financial resources that are allotted to them.

At this time, the meeting was recessed for a short break from 10:40 a.m. until 10:57 a.m.

### **Upcoming Events**

New Hampshire will observe Law Enforcement Memorial Day on Monday, May 17, at the Legislative Office Building in Concord.

On Wednesday, May 26, the Council will hold its annual Looking Beyond the Traffic Ticket recognition in the Tactical Center in Concord. A luncheon buffet will be served at noon for honorees and invited guests, followed by a keynote address by United States Attorney John P. Kacavas at 1 p.m., and concluding with the presentation of awards.

### **Budget Update**

Captain Benjamin Jean apprised the Council members of the current state of the budget for Police Standards and Training.

#### **PENALTY ASSESSMENT FUND**

- The Penalty Assessment Fund (PAF) current year-to-date balance is \$1.8 million
- Revenues year to date increased 3.4% on average over the last nine months. However, over the last three years, revenues have declined by 0.79%. Three-, five-, and ten-year trends show that revenues have been relatively flat.
- Police Standards and Training has minimized expenses to the extent possible but still needed to draw \$360,000 from PAF for current expenses. Another transfer is projected (\$158,000) before the end of the fiscal year. The resulting PAF balance on June 30 is anticipated to be approximately \$1.83 million.

#### **CAPITAL PROJECTS**

- Two backup generators are being installed at the facility in Concord by November 2010. Cost of this project: approximately \$700,000. Bond payments will begin in 2011.
- The firing range “remediation/rebuild” will be completed by January 2011 at a cost of \$740,000.
- The impact of these costs and others indicates a projected balance of \$1.4 million in the PAF at the end of FY 11. Bond payments for construction of the Tactical Center will continue through 2013.

Following Captain Jean’s presentation, the Council members returned to the ongoing question of new revenue streams for funding the mission of Police Standards and Training.

Chairman Prozzo informed that the Attorney General has been asked to evaluate alternatives suggested by Council members and to raise these alternatives with Governor Lynch. Further, he encouraged the Council members to be attentive to tenable threats to reapportion PAF revenues.

#### ***Other Business***

#### **Gift Acceptance(s)**

##### **Turkish National Police Force Banner**

The Council was asked to approve the acceptance of a banner presented to the Police Academy by the Turkish National Police Force. Captain Varney explained that the banner was presented in appreciation for a tour given as part of this group’s visit to the Police Academy. The value of the banner is not known.

Chief Morency, with a second by Chief Sullivan, moved that the Council approve the acceptance of the banner presented by the Turkish National Police Force to the New Hampshire. The voice vote of the Council carried the motion without exception.

##### **Arthur D. Kehas Memorial Plaque**

Captain Benjamin Jean informed the Council that when the Police Academy facility was renamed in honor of Arthur D. Kehas, the Kehas family commissioned a 16”X20” bronze plaque to be placed into the lobby. The plaque was received at Police Standards and Training in April 2010. The value is unknown but is assumed to be greater than \$25.

Commissioner Wrenn asked who delivered the plaque; Captain Jean replied that he was not aware of who may have delivered it. Director Vittum clarified that the Kehas family arranged for the plaque to be made and has recommended that it be placed in the lobby.

Commissioner Wrenn moved that the Council accept the plaque presented by the Arthur D. Kehas family. Chief Morency seconded the motion.

Director Vittum commented further that the plaque will be formally unveiled sometime in June. Details of this event will be confirmed and the Council will be advised of the date and time.

### **Discussion Regarding NH's Drug Recognition Expert Training Coordinator**

Director Vittum advised the Council that the New Hampshire Highway Safety Agency is authorized to appoint a statewide coordinator for DRE training and receives grant monies for this purpose. Most recently, Lieutenant Mark Bodanza, a staff member, has been assisting with the classroom instruction component. Lieutenant Bodanza clarified that DRE instructors are certified by the IACP, not by Police Standards and Training.

More recently, NHHSA Director Peter Thomson and Bureau of Liquor Enforcement Chief Eddie Edwards filed a request for legislation that would appropriate \$10,000 for the NHHSA to hire an administrative assistant to assist with the coordination of DRE training. Director Vittum stated that he was not informed of this request in advance and that in fact he was opposed to this request. He felt that it was more appropriate to use the resources within Police Standards and Training to fill these administrative needs.

A hearing before the House Finance Committee is scheduled for May 14, and the Director informed the Council that he would not support the request for an appropriation to hire an administrative assistant. If the Legislature deems that it is appropriate for Police Standards and Training to administer the DRE training program, this can be accomplished with existing resources. The Director clarified that he recommends that oversight of the DRE training program in New Hampshire be the exclusive responsibility of the New Hampshire Highway Safety Agency and the Bureau of Liquor Enforcement after October 2010.

Chairman Prozzo suggested two options for the Council to consider:

1. Police Standards and Training concludes their participation in the DRE training program altogether in October 2010; or,
2. An agreement must be reached that Police Standards and Training will select the instructor(s) and provide administrative support for the DRE training program.

Commissioner Wrenn requested that the Council review the Memorandum of Understanding between Police Standards and Training and New Hampshire Highway Safety Agency/Bureau of Liquor Enforcement before a decision is made.

Director Vittum recommended that NHHSA Director Thomson and Chief Edwards address the Council directly concerning the future involvement of Police Standards and Training in the DRE program prior to October. If a decision is made for Police Standards and Training to continue its involvement with the DRE program, Lieutenant Bodanza could be made available; in that case, however, it is the Director's preference for PST to provide the needed administrative support under such an arrangement, rather than someone hired to fill a newly created part-time position by New Hampshire Highway Safety Agency.

Sheriff Foote agreed that continued participation in the DRE program requires that the personnel involved meet PST standards and he asked what impact this would have on PST staffing and other resources. Director Vittum said that the added burden would definitely take resources and staff (about 25 hours a week) away from other things that need to be done, but the final decision is up to the Council and the will of the Legislature.

Deputy Attorney Fitch moved that the Council instruct the Director to have the Attorney General's office review the Memorandum of Understanding and that the Council obtain further information from New Hampshire Highway Safety Agency about the nature of the grant opportunities available, what the timing is, and who is eligible to coordinate DRE training. Commissioner Wrenn seconded the motion.

Commissioner Wrenn advised that when the Director appears before the House Finance Committee on May 14 he should indicate that the Attorney General is currently researching the issue to determine what entity has authority over the DRE program and not comment further.

The Council voted unanimously in favor of the Deputy Attorney General's motion, 11-0.

***Next Meeting Date/Adjournment***

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday, June 22, 2010, at nine o'clock in the morning, at 17 Institute Drive in Concord, New Hampshire.

Upon a motion by Chief Dodge, seconded by Chief Morency, the Council voted unanimously to adjourn the meeting at 11:36 a.m.

Respectfully submitted,

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Chairman Michael L. Prozzo, Jr.