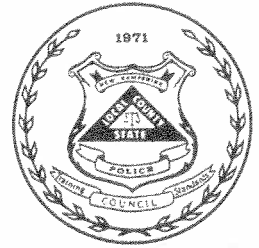




State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
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Sheriff Michael L. Prozzo, Jr.
Chairman

Donald L. Vittum
Director

Approved Minutes

October 26, 2010

Call to Order

The 400th meeting of the New Hampshire Police Standards and Training Council was called to order at 9:06 a.m. by Chairman Michael L. Prozzo, Jr., Sheriff of Sullivan County, at the John O. Morton conference room at Police Standards and Training in Concord, New Hampshire.

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

Members Absent: Chief Anthony Colarusso, Dover Police Department; Chief Peter Morency, Berlin Police Department; Chief James Sullivan, Hampton Police Department; representative of the Community College System of New Hampshire.

Staff Present: Director Donald Vittum, Lieutenant Mark Bodanza, Captain Benjamin Jean, Captain Mark Varney, Chief (ret.) Timothy Merrill, Lieutenant Paul Moller, Investigative Paralegal Anne Paquin, and Council Secretary Kathryn Day

Others Present: Officer Matthew Bloom, Roxbury Police Department; Mr. Steven Sexton; Mr. Dmetrios Tsaros; Deputy Michele Clarke, Merrimack County Sheriff's Office.

Approval of Minutes

Chief Dodge moved approval of the minutes of September 28, 2010; following a second by Commissioner Wrenn, the voice vote of the Council was unanimous, 6-0; Sheriff Foote and Colonel Quinn arrived after this motion and did not vote.

Director's Report

Director Vittum's monthly report was distributed prior to the meeting. Chairman Prozzo asked the Director to summarize the status of capital projects and future funding for the Police Standards and Training Council. Director Vittum stated that the installation of two emergency backup generators at the Concord facility was completed in October. The final cost of the project was less than expected. Renovations to the firing range will begin soon.

The Director is working to reduce bond payments for the construction of the Tactical Center and he anticipates that bond payments in the coming fiscal year will be less. Also, payments on this bond will not be included in the budget proposals for "the 95 percent scenario" next fiscal year.

Director Vittum stated that Penalty Assessment revenues in the current fiscal year have remained flat. The agency is working with the House Criminal Justice and Public Safety Committee to develop LSRs for legislation that will include a proposed assessment on inspection stickers and this proposal has received the support of the Department of Safety. He asked the Council members to consider what other alternatives should be considered to generate revenues in the next biennium.

Previous and/or Unfinished Business

NONPUBLIC SESSION: Matthew Bloom, Roxbury Police Department

A hearing was convened for Officer Bloom to show cause why the Council should not suspend or revoke his certification for violating the general requirements of RSA 188-F:27, Pol 101.03, and Pol 302.01. Officer Bloom was present and informed Chairman Prozzo that he wished for the matter to be held in a nonpublic session. NOTE: Sheriff Foote recused himself from the matter and was not present for the nonpublic hearing.

Chief Dodge moved that the Council enter into a nonpublic session to discuss personnel issues, as provided in RSA 91-A:3, II (a). Following a second by Commissioner Wrenn, the roll call vote of the Council was unanimous, 7-0, with Sheriff Foote recused. The nonpublic session commenced at 9:19 a.m.

Chief Dodge, with a second by Deputy Attorney General Fitch, moved to seal the minutes of the nonpublic session; the vote of the Council was 7-0 in favor. Chief Dodge further moved that the Council exit the nonpublic session and Colonel Quinn seconded the motion; the roll call vote of the Council was 7-0, and the nonpublic session concluded at 9:47 a.m.

In public session, the members reconsidered their motion to exit the nonpublic session before their deliberations and Justice Roberts moved that the Council return to nonpublic session to further discuss the details of the testimony in the case. Sheriff Foote again recused himself and Colonel Quinn seconded the motion. The voice vote of the Council was unanimous and the nonpublic session resumed at 9:48 a.m.

Colonel Quinn seconded Chief Dodge's motion to seal the minutes and the Council voted 7-0 in favor. Chief Dodge further moved that the Council exit the nonpublic session. Following a second by Colonel Quinn, the Council voted 7-0 in a roll call vote. The nonpublic session concluded at 9:55 a.m.

In public session, Justice Roberts offered this motion:

MOVED: That the Council finds that Officer Matthew Bloom has violated the terms of his suspension imposed by the Council on March 23, 2010, and order the suspension of his certification effective today, October 26, 2010; further, the duration of this suspension will be determined subsequent to the Council hearing the testimony of Chief Gary LaFreniere.

Commissioner Wrenn seconded the motion. There was no further discussion and the Council voted 7-0 in support of the motion.

Hearing Continued to November 23, 2010

Chairman Prozzo informed the Council members that a hearing scheduled for an officer to show cause why the Council should not suspend or revoke his certification pursuant to Pol 402.02 (a) (3) and 402.02 (a) (4) (b) and (d) has been continued at the request of the officer until the next Council meeting on Tuesday, November 23, 2010. Pursuant to RSA 91-A:3, II (a) this hearing is scheduled to be heard in nonpublic session.

Rule Change: Pol 402.02

Chief Merrill advised the Council that no comments, oral or written, were received during the public hearing and the public comment period following JLCAR's approval for the proposed change. The change to Pol 402.02, effective August 1, 2008, (Doc #9224) reads as follows:

Pol 402.02 Revocation or Suspension.

(a) The council shall, unless it has just cause to do otherwise as provided in (e) below, order the suspension or revocation of the certification of any police or corrections officer for any of the following reasons:

- (1) The certification was obtained by fraudulent or illegal means;
- (2) The officer has been convicted either prior to or after certification of a crime which constitutes a felony in this or any other state, territory, province or country;
- (3) The officer has been convicted either prior to or after certification of a misdemeanor for which there was a sentence of incarceration, regardless of whether all or part of the sentence was suspended;
- (4) The officer has been convicted either prior to or after certification of a crime of moral turpitude or of a crime which tends to bring discredit on the police or corrections service, including but not limited to:
 - a. Theft;
 - b. Assault;
 - c. DWI;
 - d. Criminal threatening;
 - e. Reckless conduct;
 - f. Corrupt practices;
 - g. Falsification of documents or evidence;
 - h. Fraud;
 - i. Sexual assault;
 - j. Public indecency;
 - k. Stalking or criminal violation of a protective order;
 - l. Reckless driving; or
 - m. Disobeying an officer;
- (5) The officer's discharge has become final or he or she has been allowed to resign in lieu of discharge from police or corrections employment in this or any other state, country, or territory for reasons of a lack of moral character as defined in Pol 101.28 or Pol 402.02 (k) or moral turpitude as defined in Pol 101.29 or for acts or omissions of conduct which would cause a reasonable person to have doubts about the individual's honesty, fairness, and respect for the rights of others and for the laws of the state or nation.
- (6) The officer has, after being hired as a police, corrections or probation/parole officer:
 - a. Used marijuana;
 - b. Illegally used or possessed any other controlled substance; or
 - c. Illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled drug or an imitation controlled drug.
- (7) The officer is unable to continue as an active duty police, corrections or probation/parole officer for a period of 45 days or more by reason of a severe level mental disorder as diagnosed by a psychologist or psychiatrist who uses mental status examinations and standardized psychological tests normed for police or corrections officers;

(8) A chief law enforcement officer has willfully:

- a. violated council rules relative to himself or herself or the officers working under his/her control; or
- b. submitted false or forged documents; or
- c. misrepresented a document or testimony before the council;

Chief Merrill respectfully requested that the Council move final adoption of the Rule change.

Chief Dodge moved that the Council approve the Rule change recommended by staff and approved by JLCAR to Pol 402.02. Following a second by Commissioner Wrenn, the Council voted 8-0 in favor.

New Business

CONSENT CALENDAR

The Council considered staff recommendations for items presented on the Consent Calendar. Chairman Prozzo advised that a request for an extension to attend the Part-Time Academy was withdrawn from the Consent Calendar because the Rindge Police Department will change Officer Thomas Horne's status to full time effective December 1, 2010.

Based on staff recommendations on other requests presented, Deputy Attorney General Fitch moved that the Council approve and adopt the Consent Calendar as amended. Following a second by Commissioner Wrenn, the voice vote of the Council was 8-0.

APPROVED CONSENT CALENDAR (AS AMENDED)

PT&E Requests

Full-Time Police Officer

Officer Michael T. Dion, Lyme Police Department will be granted full-time police officer certification based on prior training and experience. upon successful completion of the medical exam, entrance fitness test, and the Law Package, providing First Aid/CPR certification is current.

Requests for Extensions

Note: Extensions granted until fitness testing for requested Academy, and, if testing is successful, through the end of the requested Academy.

Full-Time Police Officer

154th Academy 01/03/11 – 04/08/11 (fitness test 12/20/10)

155th Academy 04/25/11 – 07/29/11 (fitness test 04/11/11)

Officer Richard J. Almeida, Newport Police Department was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy, with the stipulation that Officer Almeida must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer

Officer Joel C. Chidester, Dublin Police Department was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy, with the stipulation that Officer Chidester must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Officer Dustin M. George, Newmarket Police Department was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy, with the stipulation that Officer George must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Officer John J. Guarnieri, Plymouth State University Police Department was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy, with the stipulation that Officer Guarnieri must remain actively enrolled in the requested academy.

Conservation Officer Robert M. Mancini, Fish & Game Department was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy with the stipulation that Officer Mancini must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Officer Derek A. Titone, Kingston Police Department was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 154th Academy with the stipulation that Officer Titone must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Part-Time Police Officer

259th Academy 02/05/11 – 05/06/11 (fitness test 01/22/11)

Officer Hugh J. Dougherty, New Hampshire Marine Patrol was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy with the stipulation that Officer Dougherty must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Officer Brandon J. Dyrkacz, Raymond Police Department was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy with the stipulation that Officer Dyrkacz must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Officer William H. Jacobs, New Hampshire Marine Patrol was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy with the stipulation that Officer Jacobs must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Officer Tony J. Rizzitano, New Hampshire Marine Patrol was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy with the stipulation that Officer Rizzitano must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Officer Mark Souza, New Hampshire Marine Patrol was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy with the stipulation that Officer Souza must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Officer Padraic D. Weller, New Hampshire Marine Patrol was granted an extension through the date of the entrance fitness test and, if fitness testing is successful, through the end of the 259th Academy with the stipulation that Officer Weller must remain actively enrolled in the requested academy and continue working only in the direct presence of a certified officer.

Requests for Specialized Training Grant Funds

Berlin Police Department will be granted funds for Lieutenant Daniel Buteau to attend the Command Training Series: Mid-Management Course at Roger Williams University in Portsmouth, Rhode Island, for two weeks beginning November 29, 2010.

Amount: \$933.33

Keene Police Department will be granted funds for Lieutenant Jay U. Duguay to attend the International Association of Crime Analysts' Crime Mapping and Analysis course at Rutgers University in Newark, New Jersey, for five days beginning November 8, 2010.

Amount: \$846.33

Moultonborough Police Department will be granted funds for Officer Peter C. John to attend the DWI Instructor course at IPTM in Jacksonville, Florida, for five days beginning December 13, 2010.

Amount: \$1,000.00

Sandwich Police Department will be granted funds for Sergeant Shawn J. Varney to attend the Command Training Series: Mid-Management Course at Roger Williams University in Portsmouth, Rhode Island, for two weeks beginning November 29, 2010.

Amount: \$1,000.00

(END APPROVED CONSENT CALENDAR)

Other New Business

Requests for Consideration

Petition for Rescission – Steven C. Sexton, Chief (ret.)

On March 28, 2000, the Council moved to revoke the certification of Chief Sexton pursuant to Pol 402.02 (a) (5) and (k). On this day, the Council was asked to consider revising the status of his certification. Because this matter brings forward discussion of personnel matters, Chairman Prozzo informed Mr. Sexton that he could choose for the matter to be heard in a nonpublic session; Mr. Sexton declined this option and the hearing proceeded in public session.

Chairman Prozzo informed Mr. Sexton on the protocol for the hearing and then swore in Lieutenant Mark Bodanza who offered the following synopsis (as submitted) and Exhibits for consideration:

SYNOPSIS

Steven Sexton

The issue before the Council today (10/26/10):

Mr. Sexton submitted a letter to the Council dated August 27, 2010 requesting that his suspended certification be amended to an "expired" certification. Mr. Sexton's certification was revoked on April 10, 2000, according to a letter dated March 30, 2000 sent to Mr. Sexton by Director Earl Sweeney. Mr. Sexton's certification is listed as "revoked for cause" in the IADLEST on April 10, 2000, researched by Chief Merrill on August 31, 2010.

Background to this case:

Hired full time by Amherst PD September 1, 1974, received a full time certification February 14, 1975. Resigned from Amherst April 12, 1983, hired by Milford as their full time chief on April 14, 1983, hired by Hillsborough County Sheriff's Department part time on May 29, 1989. Retired from Milford PD on June 30, 1999; on January 1, 2000 he was not reappointed to Hillsborough County Sheriff's Department.

Form Gs were received from NH State Police on Steven Sexton for arrests on November 9, 1999 for simple assault and a protective order violation; and on November 14, 1999 for another protective order violation.

- √ NHSP investigated a simple assault domestic violence incident occurring on OCTOBER 25, 1999 between Mr. Sexton and his wife.
- √ Mr. Sexton was subsequently served a domestic violence order prohibiting contact with his wife.
- √ Mr. Sexton called and sent his wife a letter in violation of the order and was arrested pursuant to a warrant.
- √ Mr. Sexton admitted the contact and ultimately plead nolo on January 4, 2000 to the Simple Assault charge accepting a finding of guilty. His plea included the following: 100.00 fine plus penalty assessment, suspended upon compliance with conditions; 30 days in CHC (county house of corrections) suspended upon good behavior and compliance with conditions; also eligible for annulment after 3 years. Suspension period of 2 years from date of conviction, January 4, 2002? 90 AA meetings in 90 days - reporting to prosecutor within 7 days of completion, then 4 mtgs per week for the duration of the suspension; participate in spousal counseling; anger management/relapse counseling and not allowed contact with spouse w/out agreement or court's permission. The State agreed to nol pros the two protective order violations which were to be placed on file without a finding after two years.

Pursuant to POL 402.02, Mr. Sexton's certification was revoked for not less than 2 years on April 10, 2000, for the domestic violence conviction.

Since this revocation Mr. Sexton has also been arrested and convicted of DWI.

In reviewing the Milford Police Department's reports (STAFF EXHIBIT A-MPD report and photo) the council could come away with the following facts:

- √ On January 8, 2008, Sgt. Kevin Furlong was dispatched to investigate a male subject passed out in a vehicle at the Stop and Shop store.
- √ Upon arrival he found Mr. Sexton passed out slumped over the driver's wheel of his vehicle. The vehicle's headlights were on and the key in the ignition in the "on" position, but the engine was not running.
- √ Sgt. Furlong observed 3 empty bud light beer bottles standing up against the driver's side door.
- √ Sgt. Furlong attempted to wake Sexton by knocking on the window with his flashlight. At first receiving no response then Sexton awoke and knocked back on the window.
- √ Eventually Sexton awoke and opened the door. Sgt. Furlong's report indicates that he could smell vomit, urine and alcohol coming from inside the vehicle. Sexton's eyes were glassy and bloodshot and he slurred his speech as he spoke.

- √ When asked how many alcoholic beverages he had consumed, Sexton replied, "too many to count, now bring me home".
- √ Sexton refused Field Sobriety Tests and was arrested.
- √ While performing the arrest Sgt Furlong found Sexton to be extremely unsteady in his feet, he had vomit on his shoes and observed his pants were wet and smelled of urine.
- √ Sgt. Furlong's report indicates Mr. Sexton was uncooperative during the booking and had to be placed in the holding cell until he complied with the fingerprinting process. He was booked, bailed, and charged with DWI 1st Offense (STAFF EXHIBIT B- complaint) and released to a friend.

On January 14, 2008 Mr. Sexton plead guilty to DWI First Offense at Milford District Court. He was fined \$500.00, \$100 to penalty assessment. His driver's license was revoked for 9 months, with the opportunity to reinstate his license after 45 days and his participation in the Impaired Driver Intervention program, also was the Court's ability to reduce the conviction to a violation after one year and evidence that Mr. Sexton had attended one AA meeting per week for a year. (STAFF EXHIBIT C- dispositional paperwork)

SUMMARY

The matter before the Council is to determine if Mr. Sexton's revocation can be rescinded. Under POL 402.02 (h) The revocation shall be rescinded if conditions or circumstances have changed so that the basis for the action no longer exist.

(END SYNOPSIS)

In closing, Lieutenant Bodanza referenced Pol 402.02 (h) concerning a petition for rescission: "...*The action shall be rescinded if conditions or circumstances have changed so that the basis for the action no longer exists.*" Lieutenant Bodanza stated that Mr. Sexton's arrest for DUI on January 8, 2008, and subsequent Guilty plea seems to indicate that conditions or circumstances have not changed (Exhibit A) and that the revocation should not be rescinded. There were no questions from the Council on the facts presented.

Mr. Sexton declined to ask questions, as well, and was duly sworn. He made the following statements to the Council in support of his request.

- Mr. Sexton served for 25 years in New Hampshire law enforcement with no complaints from citizens or disciplinary action imposed. He retired in good standing in 1999.
- Mr. Sexton worked to address the cause for domestic violence conviction by successfully completing the court-ordered anger management class. His conviction was subsequently annulled by the Court and eleven years have passed since this incident.
- Mr. Sexton does not intend to seek employment in New Hampshire law enforcement; the reason for requesting the rescission is fairness. First, when Mr. Sexton was noticed for the hearing on March 23, 2010, he advised then-Director Earl Sweeney that he wanted the hearing continued to a later date; the hearing was held as scheduled without Mr. Sexton being present or being notified that a continuance would not be granted.
- Second, Mr. Sexton believes that his opportunities for future employment would greatly improve if the rescission were granted. He relocated to New Hampshire three months ago after living for a time in Gettysburg, Pennsylvania, to improve his chances of finding employment. He has applied for positions as a security guard without success and believes that these and other opportunities will continue to elude him as long as the

revocation of his New Hampshire law enforcement certification is in effect. He asks that the Council revise the status of his certification to "expired" (i.e., lapsed) so that he can find non-law-enforcement employment.

- The Milford District Court, finding that Mr. Sexton had successfully completed the court-ordered alcohol education program, reduced the term of his driver license revocation from nine months to ninety days in February 2008. Mr. Sexton completed a 45-day residential alcohol treatment program and he continues to attend AA meetings on a daily basis to maintain his sobriety.

After Mr. Sexton completed his testimony, there were no questions posed to him.

Colonel Quinn asked Lieutenant Bodanza to reiterate the applicable language of Pol 402.02 (h) for clarification of what is required for the Council to rescind the revocation. Lieutenant Bodanza read, "*(h) If a person has had their certificate revoked after exhausting all appeals under this section, the council shall accept a petition for rescission of the revocation no sooner than 24 months following the date of denial. The petitioner shall state in writing the reasons why the action should be rescinded. The action shall be rescinded if conditions or circumstances have changed so that the basis for the action no longer exists.*"

Lieutenant Bodanza contended that the conditions or circumstances that were the basis for the action potentially still exist (e.g., Mr. Sexton's DUI arrest in 2008). Hearing no further questions, Chairman Prozzo asked for the pleasure of the Council.

Chief Dodge voiced the following motion:

MOVED: That the Council finds cause to deny Steven Sexton's Petition for Rescission, based on his subsequent arrest in 2008 being evidence that conditions or circumstances have not changed as stated in Pol 402.02 (h).

Colonel Quinn seconded the motion. Deputy Attorney General Fitch stated that he would support the motion and he thanked Mr. Sexton for his 25 years of law enforcement service. He commended Mr. Sexton for taking action to deal with his alcohol issues, but he could not support the Petition for Rescission without evidence of a longer period of sobriety. Hearing no further discussion, Chairman Prozzo called for the vote of the Council and it was unanimous in support of the motion to deny.

NONPUBLIC SESSION: Eligibility – Demetrios Tsaros

On October 23, 2001, the Council voted to accept Mr. Tsaros' surrender of his law enforcement certification for a period of not less than two years. On this day, the Council was asked to determine his eligibility for employment as a New Hampshire law enforcement officer and for reinstatement of his certification.

Because this matter brings forward discussion of personnel matters, Chairman Prozzo informed Mr. Tsaros that he could choose for the matter to be heard in a nonpublic session; Mr. Tsaros stated his preference for a nonpublic session.

Chief Dodge moved that the Council enter into a nonpublic session to discuss personnel issues, as provided in RSA 91-A:3, II (a). Following a second by Commissioner Wrenn, the roll call vote of the Council was unanimous, 8-0. The nonpublic session commenced at 10:24 a.m.

Colonel Quinn seconded Chief Dodge's motion to seal the minutes and the Council voted 8-0 in favor. Chief Dodge further moved that the Council exit the nonpublic session. Following a second by Colonel Quinn, the Council voted 8-0 in a roll call vote. The nonpublic session concluded at 10:45 a.m.

In public session, Justice Roberts recommended that Mr. Tsaros be given favorable consideration and offered a motion:

MOVED: That the Council rescinds their acceptance of Mr. Tsaros' surrender of his certification based on evidence that the conditions or circumstances that were the basis for the Council's action have changed; further, the Council finds Mr. Tsaros eligible for employment and for reinstatement of his certification once he successfully completes all requirements for education, training, and fitness.

Following a second by Sheriff Foote and without further discussion, the Council supported the motion, 8-0.

Updated Cooper Fitness Norms Adopted

Prior to this meeting the Council members were advised that the Cooper Institute had updated their normative data in August 2009. The Council reviewed detailed information provided by staff and considered approving the new norms for implementation in the New Hampshire Police Academies beginning January 1, 2011.

Staff member Lieutenant Paul Moller, a certified Cooper fitness instructor, explained that the changes to Cooper's normative data affect females at the 35th percentile, the 45th percentile, and the 50th percentile and the males in the 45th and 50th percentiles. Other changes affect the norms for females, particularly the alternative bicycle test.

Lieutenant Moller stated that he had analyzed the outcomes of the four most recent Academy classes applying the updated standards and the results are: Of twenty female recruits, only two would have been impacted by the change at the 35th percentile; at the 45th percentile zero would have been affected. Director Vittum commented that Cooper has also implemented a new category of standards for individuals who are age 70 years and above.

Director Vittum stated that all New Hampshire law enforcement agencies will be advised of the changes by Police Standards and Training and he asked the Council to indicate when the new norms should become effective in New Hampshire.

Sheriff Foote asked how the new norms would impact a current officer's capacity to complete ongoing physical fitness requirements that were implemented in New Hampshire in 2001. Would they be held to the new standards or "grandfathered" under the standards in effect for their most current test?

Director Vittum responded that he felt the new standards should apply to anyone currently required to complete the three-year test. In addition, as a practical matter, monitoring compliance issues will become necessarily more complex if the standards are not uniformly applied.

Considering that the Police Standards and Training Council has already adopted the Cooper guidelines as a standard, Commissioner Wrenn recommended, and Justice Roberts agreed, that the Council's standards should remain current with any updates implemented by the Cooper Institute and that an effective date of January 1, 2011, would allow enough time to inform anyone due for a PT test in 2011 that they will need to perform to the updated norms to pass.

Commissioner Wrenn put forth a motion:

MOVED: That the Council adopt the standards updated by the Cooper Institute in August 2009 and implement these standards for New Hampshire law enforcement effective on January 1, 2011.

The motion was seconded by Justice Roberts. Hearing no discussion, the Chairman called for the vote of the Council and it was unanimous in support, 8-0.

Gift Acceptance

Police Standards and Training Council has been presented with the gift of an insignia patch and uniform from the head of counter-terrorism research in the Brandenburg, Germany, Interior Ministry and the Council is asked to approve acceptance of these gifts.

Captain Mark Varney explained that these items were presented to Director Vittum following a tour of our Concord facility that he conducted for Dr. Heike Wagner on September 22, 2010. Dr. Wagner, a former Chief of Police, is preparing to take command of the Police Academy in Brandenburg and her visit helped her to prepare for her new role. The staff respectfully requests that the Council approved the acceptance of these gifts that are intended for display at the Arthur D. Kehas Law Enforcement Facility and Campus.

Following a motion by Colonel Quinn, seconded by Commissioner Wrenn, the Council voted to approve acceptance of these gifts, 8-0.

Other Business

2010 Legislation – HB 1436

Director Vittum asked the Council to consider the implications of a bill Governor Lynch signed in the 2010 Legislative Session, House Bill 1436. Effectively, the new law amends RSA 14 by adding a new subsection, 14:50 Legislative Security; Authority that became effective July 6, 2010. Section IV allows for legislative security staff to attend and participate in training programs administered by the Police Standards and Training Council, but remain exempt from being required to meet the training and certification requirements of RSA 188-F:27.

Section V states that, "*Legislative security staff who were certified police officers prior to appointment to the legislative security staff may retain or regain their police certification while serving as sworn members of the legislative security staff upon completing such continuing education requirements as the Police Standards and Training Council may require.*"

Director Vittum told the Council that he has met with the current Legislative Security staff and he agrees that their participation in our training programs will be of great benefit and can be accommodated providing that there are spaces available. Some of the language regarding law enforcement certification is concerning, though, and the Director asked the Council to consider how they might interpret that language and told them that he has also contacted the Attorney General's Office for guidance.

Deputy Attorney General Fitch recommended that the right approach may be for the Council to adopt Rules to address the open-ended nature of the language in Section V so that it is properly understood and exactly conforms to requirements for all other police officers whose certifications have lapsed (i.e., requirements for completing the law package, entrance fitness test, etc.). He said that the Attorney General's Office (Nancy Smith) will recommend what should be included in an Administrative Rule for discussion at a future Council meeting.

Request for Use of Police Standards and Training Council Facilities

Director Vittum asked the Council for input on a request received from the Merrimack County Sheriff's Office. Detective Michele Clarke appeared to provide details. Captain Jean said that the Sheriff's Office has asked for permission to use a classroom and the Tactical Center to conduct a tuition-based class in January 2011. The space needed is available at this time.

Detective Clarke told the Council that the course being offered is called Rape/Aggression Defense and it is a 30-hour, three-day self-defense awareness program that is endorsed by ICALEA. The students who enroll will become certified to offer instruction to others in their communities.

Chairman Prozzo asked the exact time scheduled for the class and Detective Clarke responded that on each of the three days the class would run from 8 a.m. to 6 p.m. and she hopes to enroll at least twenty students. Deputy Attorney General Fitch asked what the fee will be for the program and Detective Clarke responded that the tuition cost is \$450. The majority of these funds will cover the travel expenses for the instructor, their time spent providing instruction, and the cost of printing copyrighted instructional materials.

Commissioner Wrenn asked if there would be any financial benefit to Merrimack County and Detective Clarke answered that there would be none and, in fact, the agency would not be reimbursed for the time that she and other staff would be assisting the instructor.

Justice Roberts asked if the program would be publicized as being sponsored by the Merrimack County Sheriff's Office and Detective Clarke replied yes. Justice Roberts asked if the Police Standards and Training Council had approved similar requests in the past. Director Vittum indicated that there have been occasions in the past, but he did not feel comfortable with the issues surrounding the liabilities involved. He stated that he had no concerns about demands for increased staffing during the three-day program.

Deputy Attorney General Fitch asked if the Director was concerned about the risks and liabilities involved with conducting hands-on training and wanted to know exactly who would assume this responsibility. Detective Clarke confirmed that nearly half of the instruction time would be spent on hands-on defensive tactics that will take place in the Tactical Center.

Deputy AG Fitch asked if Merrimack County had signed a contract that assumes liability and he wanted to know if Detective Clarke had explored other locations or getting sponsorship through the State of New Hampshire. He said that there are opportunities to get sponsorship and for those who will attend to apply for grant monies. Detective Clarke responded that she had had contact with the Attorney General's Office about funds being available and was told there none at this time; she said that if funding were available to offer the course through the Academy, this would be a welcome opportunity.

Chief Dodge asked if Detective Clarke had looked into alternative locations, such as gymnasiums or other municipal facilities for the course. Detective Clarke said that she had contacted Police Standards and Training Council first, because our facility seemed to be the most appropriate training environment; the majority of the instructors who will become certified are police officers.

Chairman Prozzo asked if the staff had any recommendation on the request. Director Vittum said that, in addition to his other concerns, the fact that the fee will be going to an outside independent contractor is problematic. Justice Roberts felt that the liability issue could be addressed in a contractual agreement, with either the Sheriff's Office or some other entity, and the Academy could be added as an additional insured on whatever policy applies. Tuition, he said, was a "thornier problem," although it appears that these monies will be used to pay out-of-pocket expenses of the instructors and the materials – "...no one is making any money on this."

Chairman Prozzo advised Detective Clarke to investigate alternative locations and ways to address the liability issue and, then, return to the Council when they meet again on November 23. Detective Clarke agreed. Deputy Attorney General Fitch recommended that Detective Clarke contact Sandy Matheson of the Attorney General's Office for assistance.

General (Discussion)

Scheduled Meeting Dates

The November 23, 2010, Council meeting will be held as scheduled. The members agreed to move the meeting scheduled for December 28, 2010, to an earlier date. The new date for the last Council meeting of this year is Tuesday, December 21, 2010.

Next Meeting/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday November 23, 2010, at nine o'clock in the morning, at 17 Institute Drive in Concord, New Hampshire.

Upon a motion by Chief Dodge, seconded by Justice Roberts, the Council voted unanimously to adjourn the meeting at 11:06 a.m.

Respectfully submitted,



Chairman Michael L. Prozzo, Jr.