



Sheriff Michael L. Prozzo, Jr.
Chairman

State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
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Donald L. Vittum
Director

Approved Minutes

March 27, 2012

The 416th meeting of the New Hampshire Police Standards and Training Council, was called to order by Vice Chairman Wrenn at 9:12 a.m. in classroom four at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Vice Chairman William L. Wrenn, Jr., Commissioner of the New Hampshire Department of Corrections; Chief James Sullivan, Hampton Police Department; Justice Sawako Gardner, 10th Circuit District Division, Portsmouth; Colonel Robert Quinn, New Hampshire State Police; Chief Anthony Colarusso, Dover Police Department; Chief Peter Morency, Berlin Police Department; Chief David Cahill, Sunapee Police Department; Richard Foote, Sheriff of Cheshire County; Attorney General Michael Delaney; and Justice James Carroll, 4th Circuit District Division, Laconia

Members Absent: Chairman Michael L. Prozzo, Jr., Sheriff of Sullivan County and Chancellor Ross Gittell, Community College System of New Hampshire

Staff Present: Director Donald Vittum, Chief Timothy Merrill (Ret.) Captain Mark Bodanza and Investigative Paralegal Anne Paquin

Guests Present: Officer Robert Mulligan, Chichester Police Department, Officer Joseph Marquay, Charlestown, Langdon, Surry and Walpole Police Departments, Officer James Meachen, Winchester Police Department and Lieutenant Brian Baxter, New Hampshire Department of Corrections

Approval of Minutes

Judge Carroll moved for the Council to approve the meeting minutes from February 28, 2012. Following a second by Sheriff Foote, the vote of the Council was 9-0 in favor.

Director's Report

Director Vittum stated he'd like to wait to deliver his report until later in the meeting.

Declaratory Ruling DOC Correction Officer Trainee status

Motion by Attorney General Michael Delaney to table this item until the April meeting, the motion was seconded by Chief Cahill with unanimous vote 9-0 in favor by the Council.

Chichester Officer Robert Mulligan

Violation of Pol 302.12 and Pol 402.02 (11) as well as the Council policy effective beginning January 1, 2007 regarding part time officers going over 1300 hours.

Vice Chairman Wrenn asked Officer Mulligan if he would like his hearing held in a non public or public session, Officer Mulligan asked for a public session.

Captain Bodanza introduced himself and was sworn in by Vice Chairman Wrenn.

Captain Bodanza provided Council members with copies of meeting minutes from December 19, 2006 when it was decided how cases of when part time officers who had violated the 1300 hour rule would be dealt with, those minutes were approved by the Council at the January 2007 Council meeting.

The question before the Council was, for a violation of Pol 402.02(11), an officer who is not full time certified is only allowed to work up to 1300 hours each year. Officer Mulligan does not hold a full time certification.

Captain Bodanza provided Council members with a timeline and reviewed Officer Mulligan's employment history. In 2009 Officer Mulligan's hours from New Hampshire Marine Patrol and Chichester Police Department combined were 1357; 57 hours over the number of hours allowed. A letter was sent to Officer Mulligan from Director Vittum that stated during 2009 he must subtract the 57 hours from 1300 hours to allow for the overage in 2008. Officer Mulligan could not work more than 1243 hours during 2009. In 2009 Officer Mulligan worked 1040.50 hours, and in 2010 he worked 1267.50 hours, there were no violations during those years.

In 2011 PSTC received affidavits from New Hampshire Marine Patrol indicating 796 hours worked, and from the Chichester Police Department indicating 540 hours worked. The total from both departments was 1336 hours, 36 hours more than he should have worked, and also, his second violation of the 1300 hour rule. Because it was his second violation, Officer Mulligan was issued a notice of hearing from Director Vittum to appear before the Council. On February 24, 2012 Officer Mulligan resigned from his position at New Hampshire Marine Patrol, he remains employed as a part time officer by the Chichester Police Department.

Captain Bodanza explained that the question before the Council was, would there be just cause to suspend or revoke Officer Mulligan's part time police certification for a violation of Pol 402.02 (11), for exceeding the 1300 hours allowed in a year.

Captain Bodanza commented that Chichester Police Department's reported hours on Officer Mulligan may be at issue because they did not consider his "on call time" or time spent in court. That is not counted towards part time hours worked. However, even after Chichester subtracted the hours that didn't count, Officer Mulligan's time was still 11 hours over. That information had been received by PSTC staff the day before the hearing (March 26, 2012). There were the same type of questions relative to New Hampshire Marine Patrol's reporting of Officer Mulligan's hours; boating education classes do not count toward regular worked hours. Captain Bodanza presented the staff's exhibits to Vice Chairman Wrenn and asked if anyone had questions.

Further discussion ensued about the case, PSTC did not receive information requested in the letter sent to Officer Mulligan on his first violation in 2008. The information requested was the reason why he went over on the 1300 hours during 2008.

Officer Mulligan was sworn in by Vice Chairman Wrenn. Officer Mulligan explained that he was before the Council because he had failed to track his hours correctly by separating hours that should not be counted from his regular duty hours, and that it was his responsibility to track his hours, and he had failed to do so. At this point the Council members discussed the ruling from January 2007 and the fact that this was Officer Mulligan's second violation. Vice Chairman Wrenn stated that it was his understanding that the Council could take action on certification at any point; however it was more definitive in the minutes that the Council could take action on the third violation. He went on to say that in this instance Council members heard testimony that mitigated some of the violation with the hours in question, but the fact remained that Officer Mulligan was still over on his hours.

Motion by Chief Cahill that the Council should not take any action against Officer Mulligan's certification, "keeping in mind that this is a second occurrence, and if there is a third time no matter how little or how much, he is entitled to all three chances and how he does that is up to him".

Further discussion ensued about the calculation of Officer Mulligan's hours.

Attorney General Delaney stated that he would be inclined to second Chief Cahill's motion but to expand upon it by stating, "the finding of a second violation for exceeding the limit by 11 hours, and require that amount to be deducted from the next year, and in addition to that, require the officer to immediately meet with any and all current employers to develop a written plan for both tracking and compliance with hours; for that plan to be reviewed and submitted to the Council through the staff. The officer should be required to meet for the duration of 2012 calendar year on a quarterly basis, so basically three times a year, come to Concord and review the hours with the staff".

Chief Cahill withdrew his motion and seconded the Attorney General's motion.

Vice Chairman Wrenn asked for further discussion on the motion. Further discussion ensued about who was responsible for tracking hours and questioned would this be using PSTC staff efficiently.

AG Delaney's motion was amended to state that Officer Mulligan must contact PSTC staff quarterly (an additional three times) this year to discuss hours, rather than meet with staff in person.

Vice Chairman Wrenn let Officer Mulligan convey some final input. Officer Mulligan stated that next year's hours should not be a factor as his only part time job is with Chichester Police Department.

The Council vote on the motion was 9-0, unanimously in favor.

Charlestown, Surry, Langdon, Walpole, Officer Joseph Marquay, Jr.

Violation of Pol 302.12 and Pol 402.02 (11) as well as the Council policy effective beginning January 1, 2007 regarding part time officers going over 1300 hours.

Vice Chairman Wrenn introduced himself and asked Officer Marquay if he'd like a public or non public session. Officer Marquay asked for non public session.

At 9:45 on a motion by Chief Cahill seconded by Chief Morency with roll call vote 9-0 the Council members entered a non public session

Chief Morency made a motion to seal the minutes of the non public session with a second by Chief Cahill 9-0 unanimous vote in favor of the motion.

At 9:55 a Motion was made by Chief Cahill to come out of the non public session, the motion was seconded by Chief Colarusso with the Council roll call vote 9-0 in favor.

A motion by Chief Cahill, "similar to the first case heard this morning, Joseph Marquay is over by 94 hours, with mitigating circumstances as the first case. This case should be catalogued as a second violation for going over his hours and that the future hours are reduced by 94 hours; realizing that a third violation jeopardizes his certification and ability to work as a police officer in this state".

Vice Chairman Wrenn asked Chief Cahill if he wanted the same stipulations on this officer that were placed on the earlier officer in this same violation of rule? Chief Cahill responded that this officer should correspond quarterly with the staff whether by email, telephone or faxed document to monitor his progress in 2012.

Chief Morency asked if written documentation was part of the first motion, to which Attorney General Delaney stated that written documentation was included in his motion.

Chief Colarusso seconded the motion by Chief Cahill and the Council members voted unanimously 9-0 in favor of the motion.

Vice Chairman Wrenn explained to Officer Marquay that he was not suspended, however because he went over on his hours in 2011, he must deduct the hours he'd gone over from the hours he will work in 2012. He went on to explain that Officer Marquay must develop a plan to track his hours worked with all of his departments and report back to staff at PSTC. Vice Chairman Wrenn ended the instructions by stating that Officer Marquay would receive a letter from Director Vittum explaining the specifics.

Winchester Officer James Meachen

Violation of RSA 188-F:27 111-d through j; Pol 404.06 and Pol 404.07

When asked by Vice Chairman Wrenn, Officer Meachen requested a public session for his hearing.

Captain Bodanza was sworn in by Vice Chairman Wrenn and the Captain presented PSTC's case.

Officer Meachen was present at the Council meeting for the hearing regarding three year fitness testing. Currently Officer Meachen was in compliance with RSA 188-F, however the reason he was at the Council meeting was to determine whether he was in violation of the Council rules, Pol 404.06 and Pol 404.07 by not providing PSTC staff with information required for fitness testing during the time period that it was required.

Captain Bodanza presented the timeline and employment history of Officer Meachen. Officer Meachen was due for a three year fitness test in 2010, because his date of hire was 2007 after a break in law enforcement employment. Reminder letters were sent to him in April of 2010 and in October of 2010 at Winchester Police Department. A phone call was made to Chief Philips at Winchester Police Department in December of 2010 to make him aware of the situation with Officer Meachen. The required documents were not received, and on January 6, 2011 a suspension letter was issued to Officer Meachen.

On November 21, 2011 Officer Meachen contacted Captain Bodanza by email, asking how he could regain his certification. Captain Bodanza outlined the requirements of Pol 404.06 and Pol 404.07. On December 29, 2011 PSTC staff received a medical clearance report form dated August of 2011, and a failed fitness test dated December 29, 2011. The receipt of the documents rectified the suspension according to RSA 188-F; however the failed test put Officer Meachen's certification in probationary status, the two year window to pass the fitness test. Officer Meachen must pass the fitness test before the end of 2012.

Captain Bodanza explained to the Council members, the question for consideration was whether or not there was a violation of Pol 404.06 and Pol 404.07; that Officer Meachen did not supply Council staff with documents for his three year fitness testing at the time he was required to file them; and what sanctions regarding Pol 402.02 (a) (8) if they found that Officer Meachen had willfully violated the rules.

Vice Chairman Wrenn asked for questions from the Council. Discussion ensued about the time periods between tests, the amount of time that had passed between the issued reminder letters and any type of communication with Officer Meachen, as well as "drop dead dates" for compliance with medical clearance report forms and fitness tests being filed.

Officer Meachen was sworn in by Vice Chairman Wrenn and was given the opportunity to be heard by Council members. Officer Meachen added some items to his employment history that PSTC staff did not have information on; he then explained reasons why his fitness test was not filed on time.

Officer Meachen stated that he did not deny anything previously stated. He went on to say that he had received both of the reminder letters from PSTC in 2010, and at one point he had placed a call to Program Specialist Loralee Ames, who is in charge of part time officer information for PSTC. Ms. Ames informed Officer Meachen that fitness dates are calculated by dates of hire, Officer Meachen was hired by Merrimack County Sheriff's Department in 2007, therefore he was due for medical clearance and three year fitness testing in 2010.

Officer Meachen explained to Council members that he thought his dates were from 2008 to 2011, and in his case, his certification was not really necessary for the court, he was not assigned to road duty. Officer Meachen explained further that he had some health issues and that his doctor would not sign off for him to complete fitness testing on the medical clearance report form. He was finally medically cleared to test in August, 2011. Some two weeks after that, while working at his full time job at Windham Vermont's sheriff's department he was overwhelmed by that department's demands due to the hurricane; and aftermath from the hurricane. He was able to take his three year fitness test December 29, 2011, however; he failed the test.

Vice Chairman Wrenn asked if there were questions from Council members. Much discussion ensued about notification for fitness testing, non-communication with PSTC staff, and Council's disappointment that notices were ignored, as well as the blatant disregard for rules.

Motion by Chief Sullivan to suspend Officer Meachen's certification for six months, Chief Morency seconded the motion. The Council members voted unanimously in favor of the motion 9-0.

At 10:27 the meeting was adjourned for a break.

At 10:41 the meeting was back in session.

Request from New Hampshire Department of Corrections

NH DOC mad a request to the Council for non DOC employees to attend the 94th Corrections Academy.

Lieutenant Brian Baxter from the New Hampshire Departmetn of Corrections explained that there would be two OIT (State of New Hampshire) employees who will work at the Department of Corrections and that DOC was requesting the Council's approval for these individuals to attend the DOC Academy as an essential part of their training to work at the infrastructure.

Motion to grant the request by AG Michael Delaney, seconded by Chief Sullivan unanimous vote 9-0 in favor.

CONSENT CALENDAR

Prior Training and Experience Requests

Officer Neil Penttinen, Manchester Police Department

Will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Law Package of the Full-Time Police Officer Academy.

Officer Ryan Boyd, Manchester Police Department

Will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Law Package of the Full-Time Police Officer Academy.

Officer Nicholas Rinaldi Henniker Police Department

Will be granted certification upon successful completion of the medical exam, entrance fitness test, and the Law Package of the Full-Time Police Officer Academy.

Extensions

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 Academy

158^h Academy – 06-11-12 – 09-14-12 (fitness test 05-29-12)

Part-Time Police Officer Academy

260th Academy 08/11/12 – 11/16/12 (fitness test 09-14-12)

Officer Neil Penttinen, Manchester Police Department

Will be granted an extension through the date of the entrance fitness test and, if successful, through the end of the 158th Academy with the stipulation that Officer Penttinen must continue to work only in the direct presence of a certified officer and must remain actively enrolled in the 158th Academy.

Officer Ryan Boyd, Manchester Police Department

Will be granted an extension through the date of the entrance fitness test and, if successful, through the end of the 158th Academy with the stipulation that Officer Boyd must continue to work only in the direct presence of a certified officer and must remain actively enrolled in the 158th Academy.

Officer Jesse Hamlin, Danville Police Department

Will be granted an extension through the date of the entrance fitness test and, if successful, through the end of the 158th Academy with the stipulation that Officer Hamlin must remain actively enrolled in the 158th Academy.

Officer Nicholas Rinaldi Henniker Police Department

Will be granted an extension through the date of the entrance fitness test and, if successful, through the end of the 158th Academy with the stipulation that Officer Rinaldi must continue to work only in the direct presence of a certified officer and must remain actively enrolled in the 158th Academy.

Officer Shawn Coope, Belmont Police Department

Will be granted an extension through the date of the entrance fitness test and, if successful, through the end of the 158th Academy with the stipulation that Officer Coope must continue to work only in the direct presence of a certified officer and must remain actively enrolled in the 158th Academy.

Requests for Specialized Training Grants

Nashua Police Department will be granted funds for Detective Jennifer Carter, Detective Michael Welch, Detective Robert Powers, Detective Alexander Gorman, Detective James Stone, Detective Mark Anderson and Detective Stephen Sweeney to attend the Sex Crimes by the Public Training Council hosted by Nashua Police Department in Nashua NH from April 2 to April 3, 2012.

Nashua Police Department will be granted funds for Officer Shaun Mailloux, Officer Bennett Stusse, and Officer Kateline Kilgallon to attend the Advanced School Resource Officer Course by the National Association of School Resource Officers at Hesser College in Salem NH, from April 23 to April 25, 2012.

Non-Consent item

(This item was not on the consent calendar as the individual is asking to skip over the next available Academy session).

Officer Daniel Hickman, Seabrook Police Department

Was granted an extension through the end of the 159th Full-Time Police Officer Academy. An extension is required because of budget constraints and the ending date of the 159th Academy exceeds six months from the date of hire. Staff recommends granting the extension through the date of the entrance fitness test and, if testing is successful, through the end of the 159th Academy with the stipulation that Officer Hickman must remain actively enrolled in the 159th academy.

Motion by Colonel Quinn to grant the request, seconded by Chief Sullivan unanimous vote in favor 9-0.

Other New Business

Correspondence, Addendum #1

Thank you letters were received from the FBI 3-20-2012 for "Crisis Negotiator Course" and from US Probation & Pretrial Services 3-21-2012 for "Low Light Training"

Director Vittum asked for grant funding for PSTC LETS for \$2,629.00 for some specialized training for the staff.

Motion by Chief Cahill to approve the grant funding, the motion was seconded by Chief Sullivan, unanimous vote in favor 9-0.

Director Vittum then spoke about item number seven on the agenda, a request from the Deerfield Police Department. Chief Greeley from the Deerfield Police Department had called and asked if Director Vittum could give him an understanding of whether or not the Council would institute the certification of a young lady (who had appeared before the Council last month) regarding her eligibility to be hired. The woman was being processed by Deerfield Police Department as a potential hire. The Chief wanted to know whether the Council would approve her certification.

Director Vittum then stated that he had explained the hiring process to Chief Greeley filing a Form A and conducting the proper background research on the individual. The Director went on to say that the position that we have taken is that if PSTC has not received a Form A, notification of hire, no decisions would be made or pre approved.

Director Vittum updated Council members on the status of HB 1185. The cross over of the bill would be during the current week, and that there was a hearing before the Senate on the bill on March 30, 2012. Director Vittum asked Council members for their support. Director Vittum stated that PSTC should appear at the hearing and explain that it was not good, the bill should be strongly opposed.

Director Vittum further expressed that he was asking the Council to take a position and ask that chief's and sheriff's oppose this bill, that "we need to strongly send a message to them that this is the wrong way to go".

Director Vittum discussed the wording of the amendments to the bill as he felt it was not good for PSTC to back the bill or to agree with it. "It's wrong, it's not right, they even left out the provision to certify PPO's that is

highly inappropriate. So, I think there is a bigger picture here where they are allowing the Council to accept college credits for the Academy, that the bigger picture here that seems like it's a new game plan for money."

Director Vittum again stated that this bill should be opposed for the aforementioned reasons; and that everyone should be prepared for the hearing on Thursday, March 30, 2012. Chief Cahill went on to state that Carol McGuire would be speaking in favor of the bill; so any support from the Council would be helpful from those who could sign up and testify against the bill.

Colonel Quinn asked how the bill would affect rulemaking authority. Director Vittum explained it would limit authority as Council members and specifically states areas that can be attached; it would take away the broader sense of what the Council could do; it is a reverse concept. The language was left in, "you may do it" and of course the Council will say "we're not going to do it" what the probability is they'll say "you shall do it". Colonel Quinn interjected with "who will do it if we can't, where will the authority go"?

Attorney General Delaney explained that "this bill would remove the Council's rulemaking authority and specifies various areas where the Council shall adopt rules. The main problem with the bill is in doing that they are setting forth rulemaking charges in the law that are inconsistent with other statutes that we enforce; for example rulemaking regarding probation and parole is no longer there and yet there are other provisions of the statute which clearly provide requirements for the Council. As drafted, it's just bad and I think what it will do is primarily is set up inconsistencies between what our statutory duties are and what are rulemaking authority is, it will complicate the Council's jobs significantly. In the absence of their being a consistency between the rules and the statutes, I think the best thing to do is to see it go down. I think the rulemaking authority that we have right now is appropriate and I can't see one instance where the Council has overstepped it's rulemaking authority beyond where it needs to go. Just in terms of the drafting of it, it really is not consistent with the statutes that we need to enforce. For that reason I think it's bad and then certainly behind that it raises a whole host of questions on the bigger picture of who can train and who can certify, I share the Director's concerns on that".

Chief Cahill commented "in one of the new amendments it says that this Council shall certify or train other facilities under a police academy. As the General said, it's really vague so it really depends how you look into that as to whether a retired group of law enforcement can say, 'lets start our own academy'.

Director Vittum went on to say that he had concerns over the way that colleges were marketing themselves as training law enforcement officers. That could lead to being forced to accept credits from a criminal justice program at the Academy. That would not be consistent with the way the laws are taught at PSTC. At the Academy, the Attorney General teaches the laws and practicality is taught, it is all theory through the colleges. Director Vittum stated that his read was that it was financially driven.

Chief Cahill updated Council members on what he had been doing to organize and speak with people about HB 1185.

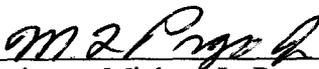
Vice Chairman Wrenn asked if there were any additional matters to be discussed.

Next Meeting Date/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on April 24, 2012, at nine o'clock in the morning.

Upon a motion by Chief Sullivan, seconded by Judge Gardner, the Council voted unanimously to adjourn the meeting at 11:05 a.m.

Respectfully submitted,



Chairman Michael L. Prozzo, Jr.