



Chief David P. Cahill
Chairman

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

PUBLIC MINUTES

October 23, 2018

The 497th meeting of the New Hampshire Police Standards and Training Council was called to order at 9:00 a.m. by Chairman David Cahill in classroom one at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Chairman David Cahill, Chief Sunapee Police Department; Vice Chairman, Chief William Hart, Jr., Londonderry Police Department; Chief Carlo Capano, Manchester Police Department; Helen Hanks, Commissioner, New Hampshire Department of Corrections; Attorney General Gordon MacDonald, Executive Major Matthew Shapiro, NH State Police; Sheriff Brian Valerino, Coos County Sheriff's Office; Justice Sawako Gardner, 7th Circuit-District Division – Rochester; Justice Melissa Vetanze, 3rd Circuit – District Division – Ossipee; Mark Long and Debra Noyes

Not in attendance: Charles Ansell, Chief Operating Officer, CCSNH; Chief Peter Morency, Berlin Police Department; and Sheriff Douglas Dutile, Grafton County Sheriff's Office

Staff Present: Donald L. Vittum, Director, Chief Timothy Merrill, Major David Parenteau, (Ret.), and Anne Paquin, Investigative Paralegal.

Guests Present: Nancy Smith, SAAG; Michael French, interim chief administrator, and Officer Todd Whitcomb, North Hampton Police Department; Chief Todd Faulkner and Officer Paul Samataro, Hinsdale Police Department, Lt. Christian Cummings and Officer Joseph Giordano, Portsmouth Police Department.

Chairman Cahill began the meeting by asking Council members for a motion to approve the minutes from the September 25, 2018 meeting.

Motion to approve the public minutes of the September 25, 2018 PSTC meeting made by Judge Vetanze, seconded by Chief Hart, the vote was unanimous in favor of the motion.

A motion by Chief Hart, seconded by Commissioner Hanks, to approve the nonpublic minutes from New Boston, the vote was unanimous in favor of the motion.

Director's Report – No report for this month.

Financial Report – Chief Merrill related that the state was at the end of the first quarter, and that PSTC’s budget was on track at 25%.

Informal Conference CO Paul Kimani

Chairman Cahill stated that the informal conference was held, but that the hearing was postponed until the November meeting.

Intoxilyzer Update

Chief Hart summarized the information from the intoxilyzer meeting that he had attended on October 3, 2018. The meeting covered the “new generation” of PBT’s, and the technology used in the new Intoxilyzers; also the differences between the hardware and technology of the Intoxilyzers 5000 versus the 9000, and the fact that New Hampshire is the only state that still uses the 5000. The technology of the Intoxilyzer 5000 is outdated, and the Intoxilyzer 9000 will gradually be implemented within the next two months.

Hinsdale Police Department

Chief Todd Faulkner was present with Officer Paul Samataro. Chief Faulkner had sent a written request to speak with the Council to discuss prior training and experience certification for Officer Samataro.

When asked, they requested a public session.

Major Parenteau summarized Officer Samataro’s education and employment history from Massachusetts and from Vermont. With the documents provided, Major Parenteau found that it was not clear that Officer Samataro’s certification was comparable with the New Hampshire requirements for full time certification. The length of time that Officer Samataro was out of full time law enforcement employment in Massachusetts and his status as a part time officer in Vermont compared with the PSTC matrix protocol indicates (out of law enforcement employment more than three years) that he must attend the full time police academy.

Chief Faulkner asked that Officer Samataro not have to attend the residential full time academy. He provided further information about Officer Samataro’s education and employment history to the Council members.

Motion, by Commissioner Hanks, seconded by Judge Vetanze, to grant a prior training and experience certification to Officer Samataro after successful completion of the medical examination, entrance fitness test, and the full time academy law package classes. The vote was unanimous in favor of the motion.

Portsmouth Police Department

Chief Merner had sent in a written request to speak to the Council to discuss prior training and experience certification. Lt. Christian Cummings and Officer Joseph Giordano were present.

When asked, they chose to be heard in a public session.

Major Parenteau summarized the prior training and experience request by the Portsmouth Police Department, for a part time auxiliary officer position. Officer Giordano was hired by Portsmouth Police Department on September 24, 2018.

Joseph Giordano was formerly employed in as an officer in Miami Dade Florida from 1988 to November of 2014. He has been out of full time law enforcement employment for three years and 11 months. This time period goes beyond the Council's protocol for prior training and experience without attending a full time police academy after a three year lapse in service.

Lt. Cummings stated that Major Parenteau was correct, but the experience from the Miami Dade police agency is tremendous. Officer Giordano retired three years and eleven months ago, he has kept up with the ongoing training required by the State of Florida with continuing education credits. As an auxiliary officer for Portsmouth, he will not do patrol work, but he would be assigned to traffic details and crowd control. If an auxiliary officer does cover patrols, they would work alongside another auxiliary officer, with a full time officer on duty. Portsmouth has an 80 hour in house training academy for everyone, and also an 80 hour FTO program.

Motion by Chief Hart, seconded by Sheriff Valerino to grant PTE certification upon successful completion of the medical exam, entrance fitness test, and by completing the law package, or the opportunity to test out of the law package classes. The vote was unanimous in favor of the motion.

North Hampton Police Department

Michael French, the interim police chief administrator for the town of North Hampton, had requested to speak to the Council on a matter regarding Officer Todd Whitcomb of North Hampton Police Department. They requested a nonpublic session.

Motion to begin a nonpublic session by Debra Noyes, seconded by Mark Long per RSA 91-A:3, II(j) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of this board. The roll call vote was unanimous in favor of the motion.

At 9:34 a.m. the council initiated a nonpublic session.

Motion to exit the nonpublic session by Debra Noyes, seconded by Sheriff Valerino, the roll call vote was unanimous in favor of the motion.

At 9:45 the meeting was back in public session.

Motion to seal the minutes of the nonpublic session by Chief Hart, seconded by Mark Long, with the Council vote unanimous in favor of the motion.

Motion by Executive Major Shapiro, seconded by Attorney General MacDonald to deny the request of the North Hampton Police Department for Todd Whitcomb to take the Criminal Statute test for a fourth time; however the recommendation is that he take the Criminal Statutes

class and test with the 178th Academy as it will be a benefit to the officer and to his agency. The Council vote was unanimous in favor of the motion.

New Hampshire Department of Corrections Pol 301.05(g) waiver

Commissioner Hanks asked that this item be tabled until the November meeting.

Motion by Chief Hart, seconded by Debra Noyes to table the New Hampshire Department of Corrections item until the November 27, 2018 Council meeting. The council vote was unanimous in favor of the motion.

New Policies

Nancy Smith, SAAG was present to discuss draft policies regarding transgender and Americans with Disabilities Act accommodations.

ADA amendment suggestions were made to be inserted into the current version of the PSTC Police and Corrections Officer manual, (copies attached). Transgender amendments were being made to the Technical Assistance Manual (copies attached).

Motion by Commissioner Hanks, seconded by Chief Hart, to accept the narrative for the two forms for transgender and ADA, granting discretion to PSTC staff to work with SAAG Nancy Smith to finalize the versions of the forms and amendments to manuals. The Council members voted unanimously to approve the motion.

Attorney General MacDonald thanked Major Parenteau and Nancy Smith for developing the policies.

Consent Calendar

Prior Training and Experience Requests

Ruben Jimenez, Salem Police Department (DOH: 09/10/18) was granted certification upon successful completion of the medical exam, entrance fitness test, and Law Package of the Full-Time Police Officer Academy.

Motion by Chief Hart, seconded by Ms. Noyes to accept the consent calendar, the Council vote was unanimous in favor of the motion.

December Council Meeting

Council members agreed that the meeting date for December would be December 18, 2018.

Ammunition

Captain James Mulla addressed the Council members about changing the ammunition used on the PSTC range from lead to frangible. His summary listed the benefits of safety, less wear and tear on steel plates and less cost for cleaning maintenance. The only downfall is that the frangible ammunition is more expensive by about one half.

Motion by Chief Hart, seconded by Commissioner Hanks, to approve the recommended change by Captain Mulla to frangible ammunition, with a starting date of January 1, 2019. The Council vote was unanimous in favor of the motion. Chief Cahill agreed to notify all the chiefs by letter.

Rules Amendment Pol 302.01

Chief Merrill gave an update on the amendment to Pol 302.01. The rule came back with suggested changes from the Office of Legislative Services Administrative Rules, which have been implemented. The final proposal of the rule will be ready for the Council to vote on during the November meeting.

Performance Audit

Motion by Chief Hart, seconded by Commissioner Hanks, to begin a nonpublic session regarding the Performance Audit by the Office of Legislative Budget Assistant, per RSA 91-A: 5, IV and RSA 14:13-A, the Legislative Budget Assistant statute. The roll call vote was unanimous in favor of the motion.

At 11:00 a.m. the Council began a nonpublic session.

Motion to exit the nonpublic session by Chief Hart, seconded by Attorney General MacDonald, the roll call vote was unanimous in favor of the motion.

At 11:23 the Council returned to a public session, no motions were made regarding the LBA Performance Audit. The Council took a break.

At 11:33 the meeting was back in session.

Request for Advice sent to Chief Hart

Chief Hart explained that he had received an email from an attorney for direction relative to a municipality and its chief.

Discussion ensued amongst the Council members, the conclusion being that Police Standards and Training Council should not be a part of local political matters.

Chief Hart stated that he would respond to the attorney appropriately.

Legislative Budget Audit meeting

Attorney General MacDonald asked members to solidify a date to respond to LBA auditors. November 1st at 9:00 a.m. was the agreed upon date, and that Attorney General MacDonald, Chief Cahill, Chief Hart, Chief Capano, Sheriff Valerino, Mark Long, a designee of NH State

Police, and if possible, Judge Gardner would attend. The second date agreed upon was to use the regular Council meeting date of November 27, 2018.

Chairman Cahill asked if there was anything else to discuss before adjournment.

Suspension of Corrections Officers

Commissioner Hanks had concerns about the suspension of correctional officers.

There is no option at the New Hampshire Department of Corrections for suspended officers to work 'desk duty'. Suspension means that they are not paid until their certification is reinstated.

Chairman Cahill responded that, no police officer has been suspended by the Council and allowed to work at a desk job, but in the case of a temporary suspension hearing with no suspensions by Council for cause, they have been allowed to work in a position that does not require certification.

Commissioner Hanks countered that the New Hampshire Department of Corrections is not able to put correction's officers into other positions which allow them to be paid.

Discussion ensued amongst the Council members about agencies taking responsibility for their employees and dealing with them if they have violated a Council rule. Some agencies wait for the Council to make a decision regarding their employee. The action or inaction of an agency regarding their employee has an effect upon Council decisions, and the integrity of the criminal justice system.

The next meeting will be on November 27, 2018.

Motion to adjourn at 11:45 by Chief Hart, seconded by Chief Capano, and the Council vote was unanimous in favor of the motion.

Respectfully submitted,



Chairman David P. Cahill