



Chief David P. Cahill  
Chairman

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

**PUBLIC MINUTES**

**January 22, 2019**

The 500th 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; Assistant Commissioner Benjamin Jean and Commissioner Helen Hanks, NH Department of Corrections, Judge Sawako Gardner, 7<sup>th</sup> Circuit District Division Rochester; Attorney General Gordon MacDonald; Chief Carlo Capano, Manchester Police Department; Colonel Christopher Wagner, New Hampshire State Police; Sheriff Brian Valerino, Coos County Sheriff's Office and Mark Long.

Not in attendance: Judge Melissa Vetanze, 3<sup>rd</sup> Circuit District Division, Ossipee; Sheriff Charles Massahos, Rockingham County Sheriff's Office, Chief Peter Morency, Berlin Police Department, Charles Ansell, Community College System of New Hampshire and Debra Noyes.

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

Guests Present: Roderick Greenwood, Recruiting Officer for the New Hampshire Department of Corrections and candidate Cody Michael.

Chairman Cahill called the meeting to order at 9:00 a.m.

The public minutes from December 18, 2018 were approved in a motion by Chief Hart, seconded by Colonel Wagner, and unanimous vote by Council members. (Judge Gardner and Assistant Commissioner Jean abstained from this vote as they were not in attendance for the December meeting).

Director's Report

Director Vittum summarized for the Council that two of the recruits had left from the current academy; there had been fitness testing for the upcoming Part-Time Academy over the past weekend; recruits had been sent home for one night last week due to a broken pipe at the academy; and that he has been speaking with Senator D'Alessandro about the PSTC budget.



### Financial Report

Chief Merrill explained that PSTC's budget was where it should be for this point in time.

### Performance Audit Report

Chief Merrill has met with the Performance Audit Committee and he stated that they were in agreement with the responses given by PSTC staff to the items they had questioned in the audit. A hearing is scheduled currently for February 8<sup>th</sup>.

### New Council Member

While not present at the meeting, Sheriff Massahos was welcomed to the Council.

### Three Year Fitness

Major Parenteau informed the Council that all officers who were due for ongoing three year fitness testing in 2018 had provided PSTC with a passing test, a failed test, a medical extension or that their agency related that a change in the employment status of the individual was forthcoming. There were no suspensions for 2018 fitness testing.

Of those who had been due to test in 2016 and had been granted a two year extension ; two notices of suspension have been sent for the inability to pass the fitness test, and one notice of suspension for the inability to obtain medical clearance to participate in the fitness test.

### Corrections Advisory Committee

Chief Merrill explained that there are certain positions to be represented on the Corrections Advisory Committee, and that there had been a recent vacancy on the Committee. Warden Corey Riendeau had been suggested by Commissioner Hanks to fill the position, and he was nominated by the Director.

Motion by Chief Hart, seconded by Sheriff Valerino, to approve Director Vittum's nomination of Warden Corey Riendeau pursuant to RSA 106-L:5, XXI to the Correction's Advisory Committee. The Council vote was unanimous.

### Recusal Guidelines – Non-Public Sessions

An updated guideline document was presented to Council members to assist them with correct statutes to be used when entering a non-public session, sealing the minutes of a non-public session, and the appropriate recusals due to conflicts of interest.

Motion by Colonel Wagner, seconded by Chief Hart, to approve the guideline sheet as presented. The Council vote was unanimous in favor of the motion.

### 15A Forms

Attorney General MacDonald asked whether all of the Council members had provided their 15A forms. The response from Chief Merrill was that all but three Council members had filed the forms. Chief Cahill will send reminders after today's meeting.

### NH Department of Corrections Pol 301.05(g)(8) Waiver Request



Roderick Greenwood, recruiter for the NH Department of Corrections, and Cody Michael were present for this request.

When asked, Cody Michael chose to have this request heard in public session.

Major Parenteau read Pol 301.05(g)(8) into the record.

Pol 301.05 Background Investigation. The following shall apply to the background investigation required on the applicant by the agency:

(a) The hiring authority shall conduct, or cause to be conducted, a background investigation before appointing a person or investing with authority any person elected as a police, corrections or probation/parole officer, notwithstanding that the officer may already be employed by another hiring authority or is already a certified police, corrections or probation/parole officer;

(g) The hiring authority shall evaluate the results of its background investigation and the agency shall not appoint a person or invest with authority any person elected as a police, corrections or probation/parole officer, who:

(8) Has ever illegally manufactured, transported for sale, or sold a controlled substance as sale is defined in RSA 318-B:1, unless, upon review of the council at the request of a hiring authority, the council finds that:

a. Either:

1. The conduct occurred at an age when the applicant would have been considered a juvenile under the laws of the state of New Hampshire; or

2. Where a sale as defined in RSA 318-B:1 did occur, however, the intent was not for profit, meaning the actual conduct exhibited was not intended to result in an excess of financial return over the expenditure in a transaction or series of transactions; and

b. The behavior pattern under the totality of the circumstances did not demonstrate a lack of good moral character as specified in (m) below;

Cody Michael is a prospective candidate for hire as a corrections officer by the New Hampshire Department of Corrections. The Department of Corrections has requested a waiver under Pol 301.05(g)(8) for Cody Michael's sale of marijuana.

During the background investigation self-disclosures, Cody Michael stated that he last used marijuana in 2014 and in his polygraph examination he stated his last use of marijuana was in January/February 2016 and 2017, which is not within the twelve months prior to his application. He also stated in 2016 when he was 18 years old, he made five sales of marijuana to friends for \$20.00 per sale.

(Assistant Commissioner of Corrections Benjamin Jean recused himself from this matter).

Chairman Cahill swore in Cody Michael.

Roderick Greenwood summarized the process that the Department of Corrections used for the hiring of Cody Michael:



- Physical agility test
- Law enforcement applicant inventory
- Criminal records investigation
- Interview and passing drug screen
- Finger prints
- Polygraph
- Medical examination
- Personal history statement
- Prior employment listed, and currently enrolled in U.S. Army Reserve
- Seventeen positive references have been contacted

The waiver request from NH Department of Corrections is for the sale of marijuana because there was no excessive financial gain for the candidate.

Council members asked about the hiring process. Cody Michael was required to complete an information packet during the hiring process for NH Department of Corrections. When completing the information packet, the question relative to drugs and drug sales was checked “no”. The form was not reviewed in person before the polygraph examination.

He was asked to explain how his sale of marijuana was “not for profit” or “an excess of financial return”. He explained that he had marijuana; he sold some to a friend for the same amount that he paid for it. This transaction occurred five times. He was not a juvenile at the time.

Roderick Greenwood, when asked, answered that another discrepancy in information provided by Cody Michael was the timeline of his use of marijuana. The statement given was that his marijuana use was in 2016 or 2017.

During the discussion, Council members confirmed with Cody Michael that his sale and use of marijuana was not disclosed until during his polygraph test. When asked, Cody Michael confirmed that he stated he had used marijuana in 2014, when it was actually in 2017.

Major Parenteau informed the Council that while NH Department of Corrections was seeking a waiver regarding Pol 301.05(g)(8); the Council could consider Pol 301.05(g)(12) which specifically states “has knowingly made a false statement in the application process”.

Council members discussed the issue of dishonesty and the importance of truthfulness.

Motion by Chief Cahill, seconded by Sheriff Valerino, to deny the request of NH Department of Corrections for a waiver of Pol 301.05(g)(8) for Cody Michael. The Council vote was unanimous in favor of the motion.



### Scott Park Hearing

Major Parenteau updated the Council, Scott Park had a court hearing on this date, January 22, 2019 so was not able to attend the PSTC hearing. He will be scheduled to return for the February Council meeting.

### Consent Calendar

#### PT&E Requests

Patrick Donahue Merrimack Police Department (DOH: 02/10/18) 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 of the Full-Time Police Officer Academy.

Grant Fotheringham, Hampton Falls Police Department (DOH: 10/17/18) will be granted full-time police officer certification based on prior training and experience upon successful completion of the medical exam and the entrance fitness test.

Thomas Goulden, Frankestown Police Department (DOH: 12/17/18) 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 of the Full-Time Police Officer Academy.

Ashley Mills, Lebanon Police Department (DOH: 10/28/18) 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 of the Full-Time Police Officer Academy.

Scott Payne, Raymond Police Department (DOH: 12/19/18) will be granted full-time police officer certification based on prior training and experience upon successful completion of the medical exam and the entrance fitness test.

Joseph Priest, Gorham Police Department (DOH: 12/06/18) will be granted full time certification upon successful completion of the medical examination and entrance fitness test.

James Soucy, New Hampshire State Police (DOH: 12/21/18) will be granted full time police officer certification based on prior training and experience upon successful completion of the medical examination and entrance fitness test and the law package.

Justin Washburn, Bartlett Police Department (DOH: 12/03/18) will be granted full-time police officer certification based on prior training and experience upon successful completion of the medical exam and entrance fitness test.

Bryant Tarr, NHSP Marine Patrol (DOH: 01/04/19) will be granted part-time police officer certification based on prior training and experience upon successful completion of the medical exam, entrance fitness test and the Law Package of the Part Time academy.

#### Requests for Extensions

Note: Extensions granted until the first council meeting following the fitness testing for the requested Academy, and, if testing is successful, to the first council meeting following the end of the requested Academy.



Full-Time Police Officer Academy

Class Number	Dates	Fitness Test Date
178	1/7/19-4/26/19	12/2/18
179	5/6/19-8/23/19	4/22/19
180	9/3/19-12/20/19	8/19/19

Part Time Police Officer Academy

Class Number	Dates	Fitness Test Date
277	2/2/19-5/10/19	1/19/19

Corrections Officer Academy

Class Number	Dates	Fitness Test Date
110	2/19/19 – 4/19/19	2/4/19

David Gaillardetz Troy Police Department (DOH: 12/20/17) was granted an extension through the end of the 277th Part Time Academy and, if testing is successful, to the first council meeting following the end of the requested academy with the stipulation that the officer must remain actively enrolled in the 277th Part Time Academy and may continue working only in the direct presence of a certified officer.

Ongoing Physical Fitness Testing

Requests for Fitness Testing Extension

Christopher Anderson	Jaffrey
Carleen Bowman	UNH
Richard Campbell	Somersworth
Matthew Comeau	Manchester
Brian Cregg	Concord
Bryan Croft	Concord
Duncan Domey	Sutton
Tyler Hewes	Lebanon



Christopher Kroski	Conway
Thomas McAuliffe	Manchester
Vinny Scarnici	Pittsburg.
Arthur Statezni	Newton
Zachary Wedgeworth	Newmarket
Randy Young	Strafford

#### END OF CONSENT CALENDAR

Motion by Judge Gardner, seconded by Chief Hart, to accept the Consent Calendar, the vote was unanimous (Council members abstaining from items relative to their own agencies).

#### Employee Compensation

Motion to enter a non-public session made by Judge Gardner to discuss compensation of a public employee, RSA 91-A:3, 11(a), seconded by Chief Hart, the roll call vote was unanimous in favor of the motion.

At 9:32 a.m. the Council began a nonpublic session

Motion to exit the non-public session by Chief Hart, seconded by Mark Long, the roll call vote was unanimous in favor of the motion.

#### 9:40 a.m. – exit Non-Public Session

Motion to seal by Colonel Wagner that the information would likely adversely affect the reputation of any person other than a member of the board, seconded by Sheriff Valerino.

Chief Hart interjected that the vote and minutes should be in a public session, all appointed or unclassified officials have their salary discussions in open legislative discussion.

The reason to seal would render the prior action of going into a non-public session ineffective.

The Motion to Seal failed for lack of support, no affirmative votes, and the aforementioned non-public session was determined to be public.

Motion by Attorney General MacDonald, seconded by Chief Hart, to approve the step increase for Director Vittum, the Council vote was unanimous.

#### Adoption of the amendments Pol 302.01

The change to the rule was that any uncertified officer has to work in the direct presence of a certified officer until they become certified.



The rule has been approved by JLCAR but needs adoption by the Council.

Motion by Judge Gardner, seconded by Chief Hart, to adopt the amended rule Pol 302.01, effective at 12:01 a.m. January 23, 2019, with unanimous vote of the Council.

#### NH Department of Corrections Request for Extensions

An addendum to the Council agenda was extension requests from NH Department of Corrections for three recruits, Noah Abdulkadir, Bellony Hypolite and Henry Cooper. Major Parenteau provided Council members with the details of the request; as well as protocol in the Technical Assistance Manual, Section C2(a), which requires Council approval to continue to allow the officer to continue working if there has been a failure of a re-test on a 30-60 day.

Two of the CO trainees the DOC are requesting extensions for are in order for them to repeat the Corrections Academy, the 110<sup>th</sup> session, which will begin in February.

The third CO trainee, Mr. Cooper, passed the 108<sup>th</sup> session but failed the firearms practical. In a letter to staff, Director Kench asks that Mr. Cooper only attend the firearms section of training for the 110<sup>th</sup> Corrections Academy.

All three requests meet the requirement to seek Council approval. All are working in the direct presence of a certified officer.

Assistant Commissioner Jean informed Council members that the first two trainees would attend the 110<sup>th</sup> Academy, but Mr. Cooper's request was for him to only repeat the firearms portion of training.

Motion by Chief Hart, seconded by Chief Cahill, to approve the request from NH Department of Corrections and allow two trainees to attend the 110<sup>th</sup> Corrections Academy and the third to attend the firearms training portion of the 110<sup>th</sup> Academy, and may continue to work only in the direct presence of a certified officer. Council vote was unanimous, with Assistant Commissioner Jean abstaining from the vote.

Commissioner Helen Hanks arrived to the meeting and the Assistant Commissioner exited.

#### Review of the Director's Position

Chairman Cahill has researched the process of reviewing the Director position for PSTC, as he is the Council's employee. Questions were, who has the most contact with Director Vittum? If Council members only see him at the monthly meetings it is not enough for an evaluation.

Past evaluations have relied upon the agencies that PSTC serves.

It would be best to have those that directly interact with Director Vittum evaluate his work.



The chief's in New Hampshire, the Department of Corrections and other agencies should participate in Director Vittum's evaluation, and a tool such as Survey Monkey could be valuable. Council members could create the review and randomly deliver the survey to people that the Council would like feedback from.

Judge Gardner asked if there was a job description for Director of PSTC in order to base questions from it.

RSA 106-L:5, XVIII is the only description of the PSTC Director position.

Chairman Cahill asked Council members to think of ideas for the evaluation of the Director, the review process of the position and the method to dismiss if the employee is not performing satisfactorily

The removal of an unsatisfactory employee may be a Council vote, but the review process of the employee should be of primary concern.

The evaluation process for the Director will be addressed at the next Council meeting.

The next meeting, #501, will be on February 26, 2019.

Motion by Chief Hart, seconded by Commissioner Hanks, to adjourn the meeting, unanimous vote of the Council.

Respectfully submitted,



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Chairman David Cahill

