



Chief David P. Cahill
Chairman

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

PUBLIC MINUTES

February 26, 2019

The 501st 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, NH Department of Corrections, Judge Sawako Gardner, 7th Circuit District Division Rochester; Judge Melissa Vetanze, 3rd Circuit District Division, Ossipee; Sheriff Charles Massahos, Rockingham County Sheriff's Office, Chief Peter Morency, Berlin Police Department, 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 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: Executive Officer Robert Roy, South Hampton Police Department, Chief Richard Mello, Deputy Chief Phillip Roberts, and Logan Scelza.

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

Motion by Judge Gardner, seconded by Chief Hart to approve the public minutes from the January 22, 2019 meeting, the vote was unanimous, with the exception of Assistant Commissioner Jean (not present for the entire meeting) and Judge Vetanze who was not in attendance at the January meeting.

Motion by Judge Gardner, seconded by Chief Hart, to approve the minutes from the nonpublic session of the January 22, 2019 meeting. The vote was unanimous in favor with the exception of Judge Vetanze who was not in attendance at the January meeting.

Director's Report: To be given at the end of the meeting

Financial Report

Chief Merrill summarized; the budget for 2019 PSTC was where it needed to be.

The FY 2020-2021 biennium budget has been sent to the Governor's office. The Governor's office has recommended reductions in the areas of employee benefits, and additional items requested by PSTC.

Performance Audit

Staff asked for the Council's direction when prioritizing the order in which to address the fourteen items that were outlined by the auditors.

Chairman Cahill asked the Council members to prioritize the items during the time before the next Council meeting.

Chairman Cahill noted that the new computer software may address some of the follow-up items on the list by the auditors.

Chief Merrill informed the Council that PSTC had requested a new database in the Capitol Improvement Project, as well as updating the academy's furnace. The furnace update was approved, but the new database was not.

Next month, once the Council members prioritize the fourteen item list, the staff can begin addressing the changes.

The Evaluation of the Director

Chairman Cahill suggested that an electronic survey would be the best means to accomplish the evaluation. The best resource for the survey would be people that have a connection with the Director for the duration of a years' time. Some Council members interact with him more than others do. Requesting different agencies throughout the state to participate in the survey process would provide a broad range of references.

Chairman Cahill suggested that a group of Council members be formed and meet for a work session to discuss ideas.

Members volunteering to be part of the group were Attorney General MacDonald, Chief Hart, Chief Morency and Colonel Wagner. They will meet before the next Council meeting and will present information during the March 26, 2019 meeting.

Performance Audit, revisited

Attorney General MacDonald asked to review a few of the Performance Audit items which were directly concerned with Council members themselves. Items he mentioned were the financial disclosure statement, the invoking of 91-A for use in non-public session and adopting a formal recusal policy.

Attorney General MacDonald asked to work on the recusal policy, and revise it; his request was approved.

Non-Public Session Cites – Major Parenteau

During the November 2018 Council meeting the staff was directed by the Council to research the non-public sessions back to January 2017 to verify the RSA cited for those non-public sessions.

Staff created a document which was presented to the Council members containing a list of all of the non-public sessions (from October 2018 back to January 2017) and the reasons/statute cite listed to enter the non-public session.

Staff reviewed each non-public session then reviewed information from the non-public session sheet and reported what they believed to be correct.

The suggested changes/recommendations by the staff were brought to the Council for the members to review, and make the determination if cites should be changed.

Not all of the items from the document contain an RSA cite. Some list the reason for entering the non-public session but not the RSA cite. If staff did not think a cite was accurate, a recommendation was noted.

Chairman Cahill inquired about the Council making a motion to approve staff's suggested changes.

Major Parenteau suggested that the Council review the citations recommended by the staff before making any motions to change previous citations.

Attorney General MacDonald thanked PSTC staff for their research in the matter of non-public session citations. He suggested that the document be given to PSTC's legal counsel to ensure that the Council is within the obligations under RSA 91-A.

Chairman Cahill agreed, adding that he would like to finalize changes at the next meeting.

Motion by Judge Vetanze, seconded by Chief Hart, to have PSTC's legal counsel at the Attorney General's office review the document containing non-public sessions for the correct RSA 91-A cite. The vote was unanimous in favor of the motion.

South Hampton Police Department

Executive Officer Robert Roy of the South Hampton Police Department was present and had requested a waiver of Pol 301.05(g)(8) for a candidate from their agency. When asked, Executive Officer Roy preferred a public session.

Major Parenteau summarized the request from the South Hampton Police Department. They would like to hire an individual who they believe is of good moral character; in his application for hire he disclosed the use of marijuana in 2012 and he hasn't used it since. When he was 16, he sold a bag of marijuana. The individual stated it was the foolish actions of a juvenile.

Major Parenteau read administrative rule 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:

(g) The hiring authorization shall evaluate the results of its background investigation and the agency shall not appoint or invest with authority an applicant 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. The conduct occurred at an age when the applicant would have been considered a juvenile under the laws of the state where the conduct occurred;

b. That the behavior pattern under the totality of the circumstances did not demonstrate a lack of good moral character as defined in Pol 101.28; and

c. Where a sale did occur, it was not for profit, meaning the conduct did not result in an excess of return over expenditure in a transaction or series of transactions.

Executive Officer Roy then summarized the reason for the request to Council members.

The individual had applied with South Hampton Police Department and finished up their application procedure. He then applied for a position with the New Boston Police Department.

The information came to light during the application process with the New Boston Police Department, New Boston then contacted South Hampton Police Department.

Executive Officer Roy stated that during his agency's background investigation they were made aware of the individual's marijuana use, but the information that he sold marijuana was revealed by the New Boston Police Department's investigation. This person was seventeen at the time.

Executive Officer Roy was not aware if the individual was asked directly by South Hampton Police Department if he had sold illegal drugs, but he did disclose that he had tried marijuana. New Boston Police Department had asked him different questions from what had been asked by South Hampton; at that point it was revealed that he had sold marijuana.

The positions that this person has applied for at South Hampton and New Boston are both part-time officer positions.

Council members learned from Executive Officer Roy that:

- South Hampton is requesting a waiver of Pol 301.05(g)(8)
- The person sold a bag of marijuana to a friend, one time only;
- South Hampton does not use polygraph testing in their application process;
- A sergeant at South Hampton conducts background investigations, and Executive Officer Roy did not know the line of questioning relative to illegal drug use or sale for their agency;
- He did not purposefully leave out the sale to South Hampton.

Assistant Commissioner Ben Jean asked PSTC staff if the “Personal History Questionnaire” contained the question regarding drug use or sale, and the response from Chief Merrill was “yes”. Chief Merrill continued in his response to the Assistant Commissioner, using the Personal History Statement was part of the administrative rules and agencies must use it.

Executive Officer Roy was not able to locate the document that was referred to in the documents he had with him.

Chairman Cahill asked Council members for a motion on the request by the South Hampton Police Department.

Judge Vetanze stated that not enough information had been provided for the Council to make this decision:

- Profit from the sale
- Information from his application

Colonel Wagner suggested that the candidate should be present to answer questions.

Judge Gardner asked if the Council was under obligation to make a decision with the information currently available. Should the Council give the agency an opportunity to provide the information?

Chairman Cahill asked that Executive Officer Roy be given time to review the documentation that he had on hand and to return toward the end of today’s meeting.

Lebanon Police Department – Pol 301.05(g)(8) Waiver Request

When asked the agency requested a non-public session.

Motion by Mark Long, seconded by Judge Vetanze, to begin a non-public session per RSA 91-A:3,11(c). The roll call vote was unanimous.

At 9:38 a.m. the Council began a nonpublic session.

Motion to exit the non-public session by Colonel Wagner, seconded by Chief Hart, Council members voted unanimously in favor of the motion.

At 9:46 a.m., the Council was back in a public session.

Motion. to seal the minutes of the non-public session by Chief Hart as it may adversely affect the reputation of anyone other than a member of this board. The motion was seconded by Judge Gardner. The roll call vote was unanimous in favor of the motion.

Motion by Chief Cahill, seconded by Chief Capano, to grant the waiver to the Lebanon Police Department to hire and certify Officer Scelza, the waiver request satisfies Pol 301.05(g)(8). the conduct occurred at an age when the applicant was a juvenile under the laws of the State of New Hampshire, and where a sale as defined by RSA 318-B:1 did occur; however, the intent was not for profit, meaning the conduct exhibited was not intended to result in an excess of financial return over the expenditure in a transaction or series of transactions – and the behavior pattern under the totality of the circumstances did not demonstrate a lack of good moral character.

The Council vote was unanimously in favor of the motion.

Hancock Police Department – PT&E

Chief Andrew Wood had requested to appear at this Council meeting regarding a prior training and experience request for a newly hired officer. Chairman Cahill stated because there was no one present from Hancock Police Department, the Council would take no action on the request.

South Hampton Police Department

Executive Officer Roy returned to address the Council after reviewing his file.

Judge Vetanze asked if there was any information on the facts surrounding the sale, and if the sale had been disclosed on the initial paperwork that the candidate had completed.

Executive Officer Roy responded that disclosing drug use or sales is not one of the questions on the form for South Hampton Police Department, and that he does not have any information on whether there was profit made from the sale.

Chairman Cahill asked if Executive Officer Roy wanted a continuance until next month's meeting in order to provide the information requested, Executive Officer Roy agreed. Chairman Cahill and Council allowed the continuance, requesting answers to the aforementioned questions, and that the candidate is to appear with Executive Officer Roy at the March meeting.

Ian Kibbe

Attorney General MacDonald recused himself as his agency had done the prosecution of Ian Kibbe.

The request from Ian Kibbe and his attorney was to surrender his certification based upon his criminal arrest and conviction.

Chairman Cahill quoted that Pol 402.01 outlines that the owner of certification is PSTC itself. Pol 402.02(a)(4)(f) as read by Chairman Cahill:

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:
 - (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:
 - (f) Corrupt practices.

Major Parenteau responded that past practices by the Council were that a surrender of certification has the same weight as a revocation.

Chief Merrill stated that in the past, there were several cases of people surrendering certifications, the Council accepted the surrender of certification, but voted to revoke the certification and submit the revoked certification to the National Decertification Database.

Judge Gardner inquired as to Ian Kibbe's conviction, what was the crime?

Major Parenteau summarized the case for the Council beginning with Ian Kibbe's law enforcement certification and employment history. While he was employed by the Claremont Police Department, an investigation was initiated in February 2018.

Ian Kibbe was a sergeant, he entered a home and located what he claimed to be a handgun and baton in plain view in an open suitcase, and he filed an affidavit indicating this when he had opened the suitcase with the items inside of it.

He filed false documents with the court. He was discharged from the Claremont Police Department on March 21, 2018.

On January 7, 2019, he pled guilty to unsworn falsification and obstruction of government administration. For unsworn falsification, he was sentenced to the House of Corrections for 12 months with all but 90 days suspended, and he was not to pursue law enforcement employment in New Hampshire.

The sentence for obstruction of government administration was for 12 months at the House of Corrections running consecutively with the aforementioned sentence. He must remain of good behavior. He submitted a request to surrender his certification.

Motion by Chairman Cahill to accept the surrender of certification to the Council, to then revoke the law enforcement certification of Ian Kibbe in the State of New Hampshire and that his name be placed on the National Registry should he try to be a law enforcement officer in any other state. The motion was seconded by Chief Morency. The Council vote was unanimous in favor of the motion with Attorney General MacDonald and Colonel Wagner recused from the vote.

David Burris hearing, continued

Consent Calendar

Prior Training and Experience Certification Requests

James Morton, Campton Police Department (DOH: 12/05/18) requests consideration for full-time police officer certification based on prior training and experience. James Morton completed his full time certification at the Lowell, MA Police Academy on October 24, 2003. He was last employed by the Essex County MA Sheriff's Department until December 2018. Council granted certification upon successful completion of the medical exam, entrance fitness test, and Law Package of the Full-Time Police Officer Academy.

Daniel Wicks, Brentwood Police Department

(DOH: 02/05/19) requests consideration for full-time police officer certification based on prior training and experience. Daniels Wicks completed his full time certification during the 59th Academy, April 30, 1982, the last New Hampshire agency that he worked for was Exeter Police Department, until December 24, 1983. Daniel Wicks attended the Massachusetts Metropolitan Police Academy, and was certified on April 20, 1984. He was employed by MDC/Massachusetts State Police until September 2010, the National Geospatial Intelligence Agency 2010-2013, the U.S. Defense Intelligence Agency 2013-2018 and th Emerson College Police from February 2018 until present. Council granted certification upon successful completion of the medical exam, entrance fitness test, and Law Package of the Full-Time Police Officer Academy.

Mitchell Brooks, Rollinsford Police Department

(DOH: 02/04/19) requests consideration for full-time police officer certification based on prior training and experience. Mitchell Brooks the 174th Academy and completed his full time certification on January 26, 2018. He was last employed by the Rochester Police Department until June 5, 2018. Council granted certification upon successful completion of the medical exam and entrance fitness test.

CONSENT CALENDAR

9. 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 |

Nevin Niboli, Plainfield Police Department (DOH: 11/07/18 **Not Part time Certified**) Council granted the extension 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 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.

Anthony Robinson, Seabrook Police Department (DOH: 02/01/19 **Not Part-time certified**) Council granted the extension 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 with the stipulation that the officer must remain actively enrolled in the 179th academy and may continue working only in the direct presence of a certified officer.

John DiFrancesco, Seabrook Police Department (DOH: 02/01/19 **Not Part-time certified**) Council granted the extension 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 with the stipulation that the officer must remain actively enrolled in the 179th academy and may continue working only in the direct presence of a certified officer.

Matthew Stone, Keene Police Department (DOH: 01/07/19 **Not Part-time certified**) Council granted the extension 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 with the stipulation that the officer must remain actively enrolled in the 179th academy and may continue working only in the direct presence of a certified officer.

Zachary Terenzoni, Hampton Police Department (DOH: 01/28/19 **Part-Time certified**) Council granted the extension 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 with the stipulation that the officer must remain actively enrolled in the 179th academy.

David Gaillardetz, Troy Police Department (DOH: 12/20/17 **Not Part Time Certified**) Council granted the extension 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 with the stipulation that the officer must remain actively enrolled in the 278th Part Time Academy and may continue working only in the direct presence of a certified officer.

Requests for Medical Extensions for Three Year Fitness Testing

Joseph Hileman, Jaffrey Police Department was granted a medical extension

End of Consent Calendar

Motion by Chief Hart, second by Colonel Wagner, to accept the Consent Calendar items. Council voted unanimously in favor of the motion.

Administrative Rules Revisions

Amendment to PSTC's Form D regarding transgender fitness testing has been approved by JLCAR, and the Council may adopt and file this amendment.

Motion to adopt the amended Form D by Chief Hart, seconded by Judge Vetanze, the Council voted unanimously in favor of the motion.

Pol 302.01

Chief Merrill updated the Council members that Pol 302.01 had been adopted and was ready to be proofread and published. This rule requires new officers from their first day working to be under the direct supervision of a certified officer. No Council action was required.

Epping Police Department

A thank you letter was received from Epping Police Department for the use of firearms and driving module.

Sheriff Massahos was welcomed as the newest Council member.

The next Council meeting will be held on March 26, 2019.

Motion to adjourn at 10:08 a.m. by Chief Hart, seconded by Chief Morency, with unanimous vote in favor of the motion by the Council.

Respectfully submitted,



Chairman David Cahill