



Chief David P. Cahill
Chairman

State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
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John V. Scippa
Director

PUBLIC MINUTES
Police Standards and Training Council
April 8, 2020
EMERGENCY MEETING

Present: Chairman, Chief Cahill, Sunapee Police Department at his office alone
Chief Morency, Vice Chairman, Berlin Police Department; at his office, alone
Judge Gardner, Circuit Court Judge; at home in Jackson NH, alone
Dr. Maureen Sullivan; at her office in Portsmouth alone, at the Child Advocacy Center
Commissioner Hanks, New Hampshire Department of Corrections; at her office alone DOC
Headquarters

Attorney General MacDonald; at his office alone

Mr. Edward Lecius, at home in Merrimack alone

Judge Vetanze, 3rd Circuit District Division, Ossipee; in chambers alone

Sheriff Massahos, Rockingham County Sheriff's Office; at his office in Brentwood alone

Chief Operating Officer, Charles Ansell, Community College System of New Hampshire; at his
home office alone

Chief Capano, Manchester Police Department; at his office alone

Major Shapiro, New Hampshire State Police, at his office in Concord alone

Not present: Sheriff Valerino, Coos County; and Chief Cormier, Tilton Police Department

Staff Present: Director John Scippa, Major Parenteau, (Ret.), Lt. Hawkins, and Anne Paquin,
Investigative Paralegal at PSTC in lecture hall one at PSTC.

The Council meeting was held using "Zoom" due to COVID 19 restrictions for gathering of people. Per instruction for remote meetings, voting was done by roll call for every motion. The meeting was in public session the entire time.

Chairman, Chief Cahill called the meeting to order at 9:01 a.m. Anne Paquin took attendance by roll call, with each Council member stating their location and confirming that they were alone.

This meeting was called to address administrative rule amendments, 'emergency rules' suggested due to New Hampshire's State of Emergency due to Covid 19.

Two rules are being requested by many agencies around the state, to suspend two rules during the state of emergency.

Director Scippa noted as a recap from the March 24, 2020 meeting. Council members had asked him to poll the New Hampshire chiefs relative to waiver requests that had been made.

He collected the data from the poll and submitted it to Chairman Cahill, the data defined three areas that were concerning. Between himself, Chairman Cahill, SAAG Nancy Smith, Investigative Paralegal Anne Paquin the amendments to the rules were drafted.

RSA 541-A:18, emergency rules, PSTC has the authority to file an emergency rule if we can demonstrate imminent peril to public health or safety.

The first rule to address is POL 302.01, to allow an uncertified police officer, a new person that has been hired, but has not completed the academy, to work alone. Several chiefs have asked that the direct presence stipulation be relaxed back the way it was written previously, direct supervision. We would ask for the amendment for an emergency rule during the period of a declared state of emergency by the Governor.

There were no questions.

The second rule was Pol 302.11 limitation of hours for part time officers, to amend the rule to allow on the declaration of a state of emergency by the Governor, that hours worked by part time officers during the duration of the state of emergency will not count towards the 1300 annual limit.

Commissioner Hanks asked if part time corrections officers would be included in the rules amendment, and Chairman Cahill confirmed that it would, and Director Scippa agreed.

Judge Vetanze inquired about the status of retired officers that were working part time. Director Scippa confirmed that for full time retired officers that were working part time, it has been addressed in the retirement statute. It would not impact retirement. There may be labor concerns for municipalities.

Judge Gardner asked about allowing a police officer who has completed in house training (inaudible) to work on their own.

Director Scippa responded that the initial wording in Pol 302.01 was until in 2018, the rule said that these types of officers could work under direct supervision. That was interpreted differently by many police chiefs; it would allow an officer to work in a car by themselves, with the knowledge that there was another police officer who was certified, maybe an FTO, maybe a sergeant, who was working at the same time they were on duty. That fulfilled (in their mind) the requirement of working under supervision. The Council made the rule change in the recent past to make it 'direct presence' so that we could more clearly define the fact that the new officer could not work without someone being right there with them all the time.

He said that the question has received responses, for and against the rule. Some chiefs stated that they would never allow an uncertified officer to work alone, other chiefs saw it as something that they were willing to accept the liability for because they are in dire straights to have a car out on the road. These chiefs are asking PSTC to go back to the old rule, at least during the time of the declaration of emergency.

Discussion ensued amongst the Council members about the amount of training that an uncertified officer should have before working alone.

The chiefs that were in support of the amendment stated that the officer had been through the agency's field training program and they were waiting for the officer to begin training at PSTC. It would take pressure off the agency if they could go out in a car alone. They cite that the rule change just recently occurred, they're asking for the rule change to go back the way it used to be, at least during the declaration of emergency.

Discussion ensued further between Director Scippa, Chairman Cahill and Council members about what requirements for training could be required before uncertified officers were able to work with supervision, but not direct supervision.

If an uncertified officer was on their own patrolling in a car, what powers would they have?

Arrest?

Issue citations?

Limits on what they can do?

New officer in a car, stopping vehicles, engaging in a high speed chase?

Director Scippa responded that it was up to the Council to either agree or disagree with the rule amendment, and/or make changes to this rule on allowing uncertified officers to work.

Some chiefs may find the amendment helpful under the present circumstances; others would disagree.

Chief Capano asked about having a curriculum with a field training period and have a review that the supervising agency signs off? Criminal Code, Motor Vehicle Code, Constitutional Law? Their chief could sign off that the information was completed, for liability? There should be a standard in place, not just a few days of field training and send them on patrol.

Director Scippa stated that he sent a questionnaire out to every police chief in New Hampshire, fifty six responded. Of the fifty six, the question asked was would you request a waiver to allow a new officer that is not certified, not having completed any police academy to work alone but supervised on shift, as opposed to working in direct presence of a certified officer during the state of emergency? Fourteen chiefs were adamant that they needed the amendment to be approved. Thirty one chiefs said no, they would not ask for that. Ten had no position, a majority were answering it from their own view, as it didn't affect them directly. The majority of the chiefs said no to this question. It's been brought to the Council because the fourteen that said yes were very adamant, in particular, the chief of Conway and the chief of Dublin.

Attorney General MacDonald exited the meeting at 9:25.

Chief Morency stated that he never puts his officers in a capacity that they have not been trained yet. He asked, could the burden (of liability) be put on the agency for putting an officer out in an area that they have not been trained for?

Chairman Cahill responded that every training issue encountered may not be covered for liability.

Judge Vetanze stated that she was in favor of adding a limitation that the person does not have the power of arrest, should they carry a firearm, or she could envision them with a less than lethal device as long as they have been trained with it? There should be a set number of hours for field training because every agency defines it differently, it's important to know that it's at least 16 hours or what others agree on. There should be explicit standards and explicit limits, what would a chief say about the officer not having the power of arrest? "If you put someone out with a loaded firearm and the power of arrest I think we're asking for trouble and I don't see how it won't come back to the Council if something goes wrong and that we implicitly allowed it to happen".

Director Scippa alerted Council members that the chief of the Dunbarton Police Department had logged on to the meeting.

Chairman Cahill stated that once someone is sworn in as a police officer, they have all the responsibilities of the position, to restrict them, it would be better not to have them on the road. He wouldn't want an officer working without a handgun, or that can't make an arrest. It's circumventing the system.

Commissioner Hanks noted in the chat function of Zoom that the Dunbarton chief supports the part time 1300 hour amendment but he does not support putting untrained officers on the road to work.

Mr. Lecius asked about limiting the number of hours or time of day that uncertified officers could work? Could you stipulate that the officer not work in the middle

(PSTC LOSES CONTACT ON ZOOM)

Dr Sullivan was speaking about liability when the screen came back up at PSTC. She was wondering if chief's had contacted the State Police, she is aware that the coastal towns have been assisted by State Police.

Sheriff Massahos stated that his agency, the Rockingham County Sheriff's Office, has sent letters out to all 37 police chiefs in the county to let them know if any of the agencies have officers down or need assistance, the deputies can assist in any emergency. He does not like the idea of putting a non certified officer out to work on their own on the road, it will open up a law suit.

Chief Cahill stated that the sheriff of Sullivan County has offered their assistance as well. It may challenge towns with union and minimum staffing levels. The Sheriff's Offices and State Police may not be considered under the union rules for minimum staffing levels.

Sheriff Massahos commented that "we're all cops, at the end of the day if someone is short staffed if someone gets Covid 19 and they are down on staff there are plenty of us around to be

able to assist local law enforcement agencies. It's a safer way to do it otherwise we're putting non certified officers out to work on the streets".

Director Scippa spoke about the 1300 hour rule. A number of chiefs stated that if the Council was willing to make the amendment to allow unlimited hours during the declaration of an emergency, that that application of that particular rule change would be retroactive to the beginning of this declaration of emergency. The hours would not count during the time of the state of emergency.

The 1300 hours describe certified part time officers, not full time certified but retired working part time.

Any hours worked by part time officers during the state of emergency would not count towards the 1300 hours for the end of the year.

Motion by Judge Vetanze, under RSA 540-A:18 we are invoking the emergency rule mechanism due to the imminent peril of public health and safety issue to amend Pol 302.11 with regard to hours for part time certified officers retro-active to the beginning of the Governor's emergency order, that any hours worked during said emergency order shall not count toward the 1300 hour annual limit during the pendency of that order. The motion was seconded by Commissioner Hanks.

Anne Paquin took the roll call vote.

Chief Morency	yes
Judge Gardner	yes
Chairman Cahill	yes
Commissioner Hanks	yes
Chief Capano	yes
Sheriff Massahos	yes
Judge Vetanze	yes
Charles Ansell	yes
Major Shapiro	yes
Mr Lecius	yes
Dr. Sullivan	yes

The motion passed.

Chairman Cahill asked if there was a motion for the rule amendment for uncertified officers.

There was no motion.

Sheriff Massahos left the meeting at 10:45.

Motion to adjourn by Commissioner Hanks, seconded by Mr. Ed Lecius

Anne Paquin took the roll call vote.

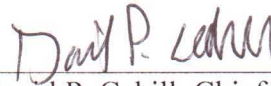
Chief Morency	yes
Judge Gardner	yes
Chairman Cahill	yes
Commissioner Hanks	yes
Chief Capano	yes
Judge Vetanze	yes
Charles Ansell	yes
Major Shapiro	yes
Mr Lecius	yes
Dr. Sullivan	yes

The motion passed.

Meeting adjourned at 10: 46 a.m.

April 28, 2020

Respectfully Submitted,



David P. Cahill, Chief
Chairman