

## ***MINUTES***

***January 26, 2005***

The 332<sup>nd</sup> meeting of the NH Police Standards and Training Council was called to order at 9:09 a.m. by Chairman Michael L. Prozzo in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire.

***Members Present:*** Vice-Chairman William L. Wrenn, Jr., Chief Michael J. Magnant, Portsmouth Police Department; Chief Gregory Dodge, Epping Police Department; Sheriff Scott A. Carr, Carroll County Sheriff's Department; Associate Justice Norman E. Champagne, Manchester District Court; Associate Justice Stephen H. Roberts, Dover District Court; Attorney General Kelly Ayotte; Colonel Frederick H. Booth, NH State Police; Stephen J. Curry, Commissioner of the Department of Corrections; and Charles Annal, Deputy Commissioner, designee of Commissioner William G. Simonton of the NH Community Technical College System

***Staff Present:*** Director Keith H. Lohmann, Assistant Director Robert B. Stafford, Jr., Paralegal Cassandra Erickson, Account-Technician Helen Robinson, and Council Secretary Denise Crocker

Chairman Prozzo welcomed Chief Dodge, a new member, to the Council.

### ***Approval of Minutes***

Following a motion by Chief Wrenn that was seconded by Colonel Booth, the Council voted unanimously to accept the minutes of November 23, 2004, as presented.

### ***Director's Report***

The Director welcomed Chief Dodge to the Council. He also welcomed Denise Crocker and introduced her as the new Council secretary. He noted that Helen Robinson would sit in the Council meetings for the next month or so until Denise is familiar with the process and prepared to fully assume her responsibilities. The Director also extended his thanks to Helen for all her assistance over the past seven months acting as the Council secretary while continuing to maintain the responsibilities of her own position.

A memo went out shortly before Christmas regarding the PT testing and accepting people into the academy that generated, as anticipated, a lot of interest from police chiefs. As was highlighted at the November meeting, there are slots and there are positions. Slots are the number of persons the departments want to hire while positions are actual names of persons who have come to test. (110-120 slots resulted in 75 people testing not including law package students). The totals resulted in 75 potential recruits and 10 law package students. The Academy began with 59 recruits and 8 law package students, which kept the Academy numbers within the limit of 70 which was the maximum. Therefore, we didn't have to make those difficult choices of who would attend and who would not attend this Academy. Even though there was confidence that a choice would not have to be made for this Academy, it was important to send the memo out to familiarize people and prepare them for what that selection process will be, as it is anticipated in the not too distant future these difficult choices will have to be made.

As a result of this memo, Chief Hefferan of Nashua came to visit the Director to express some concerns regarding what effect that selection process would have for CALEA accredited police departments. According to the CALEA Rules, an officer cannot go out to work until they have been certified. Nashua waits to hire an officer until just before the Academy. If the officer didn't make the selection, then the department would have to carry the officer until a subsequent Academy. The Director offered a suggestion that some departments are currently using. There are some officers who take the fitness test who have not been hired. They are required to sign a liability waiver. They are then permitted to test; and as a result of the testing, departments determine whether or not they are going to hire them. The Director advised the Chief that the fitness testing is done on Mondays two weeks prior to the Academy and the results/selection status would be available on the Wednesday of the same week as the testing. The Chief seemed to think this would work for his department. The Director noted that it is still an issue for CALEA accredited departments and the Director advised the Chief that if it becomes a serious issue for the 8 CALEA accredited departments they might want to come before the Council as a group.

The renovations to Lecture Hall II that were supposed to be done last summer are currently underway and are on schedule. These renovations should be completed on or about March 1, 2005. The Spring Academy class should be back in Lecture Hall II. However, if need be, that session could be held in Lecture Hall I because typically the Spring Academy is the smallest of all the academies.

After much discussion over time on this topic, video conferencing sites are coming to fruition. Littleton has been running video conferencing for three years now for In-Service Training and Part-Time Schools. On Saturday, January 8, 2005, the Part-Time School in Concord started video conferencing to Pease TradePort and Keene. It is planned that the Part-Time School will be video conferencing back-to-back sessions, with the next session beginning on March 19<sup>th</sup> on Tuesdays, Thursdays, and Saturdays and completing a couple of weeks before Memorial Day. It is planned that there will be 3-4 schools a year based on demand. It is anticipated that this will make it a great deal easier for departments to get officers trained for the part-time officer training. In addition to that, we have been video conferencing In-Service Training to Littleton for a few years; and as of January 1<sup>st</sup>, any of the video conferencing that was on the calendar available to Littleton will now be available to Pease and to Keene. The Director feels the demand for this program at the new sites will increase as awareness increases. The Director is willing to have an open house at these new sites to let police departments in the area know what

is available to their departments. The Director has hired personnel to fill the two part-time positions to run the new sites: Earl Nelson, a long time police chief in the Keene area will run the Keene site and Bob Pease, a retired Captain from Rochester will be at Pease.

The Director noted that Captain Thomas Walsh advised him on December 1<sup>st</sup> that he was retiring on December 30<sup>th</sup>. Captain Walsh has gone to work for a private consulting company out of Virginia doing in-service and homeland defense training. The Director suggested that when Captain Walsh settled into his new position that he contact the Director, as there may be some partnerships that the Police Standards & Training may be able to undertake with the company as obviously homeland defense continues to be a significant issue to the state and the nation.

The recruit wireless grant was passed by the Governor and Council. Currently there is about \$330,000 of computer equipment secured in the computer lab, which includes laptops for the recruits and equipment for the new administrative network. This project is on hold due to the priority of the LBA audit currently being conducted at our facility.

The LBA audit currently in progress is expected to take about three months. The last audit was done in 1997. The only significant issue that is expected to surface is that our expenses come out of the General Fund and once a quarter Police Standards reimburses the General Fund. Back at the end of 4<sup>th</sup> quarter FY02, Police Standards transferred monies owed in the amount of \$650,000 and was contacted by the State Comptroller indicating that Police Standards owed only \$50,000. The balance was returned to our account. We appealed that decision since Police Standards records indicated that we did owe the entire \$650,000 dollars. The Comptroller assured Police Standards that the money was not owed. The money to date remains in our account. According to the Comptroller, our account has about a \$3 million dollar balance; but we feel it may still be overstated by \$600,000 dollars. We were up front with the auditors about this matter and will wait for their discovery. At such time a check may be written to the General Fund bringing our account balance down to \$2.4 million which is what our records originally indicated to be correct.

In relation to the recruit laptop grant, we have also identified computer-based training software that we are going to be using to train the recruits and for in-service training. About \$50,000 savings was realized because the Director found an open-source product. One of the Director's concerns about this technology was security and that students would find a way to cheat; but this software not only randomizes questions but also the answers; and every recruit gets a different test. Hopefully by the April Academy, testing will be converted to the computer-based format. From there, the new curriculum will be introduced on a week by week basis starting in September or probably, more realistically, in January.

Now to update the Council on the Chief's Association Meeting news. Of late, there have been a series of incidents with police chiefs finding themselves in awkward situations. These incidents has gained the attention of the Chief's Association which has decided that there is a definite need to set up training programs to better prepare chiefs of police. This is very positive for Police Standards and Training as Earl Sweeney and the current Director have, for the past ten years, tried to engage colleges and universities in the area to partner with Police Standards & Training to create a Command College. Roger Williams does some of this training but it has two drawbacks: (1) it is in Rhode Island and (2) it is geared to mid-manager training not command level training. There is a definite need for command level training, and given the fact that the

Association is currently strongly supporting such a program and the fact that the local colleges and universities have no interest in partnering on this venture, Police Standards & Training is going to create its own Command College. It will be set up partially on-line, partially classroom, and will try to engage some of the experts such as Andy Volinsky and Dick Ayres. Once the program has been set up, the Director will then return to the colleges to negotiate the possibility of academic credit being given for the courses taken in the Command Program. He hopes to have an outline of the program in a couple of months.

Lieutenant Jill Moran is one of our employees. She was a nine year veteran of the Department of Corrections. The Director hired her in 2004 as a training specialist and she took over as the Corrections Commandant from Lieutenant Roberts who was then the Commandant of the Corrections Academy, and whom the Director promoted to the Commandant of the Police Academy. Before Lt. Moran was hired by this agency, she had expressed interest in wanting to become more well-rounded and asked to attend the Part-Time School. She was permitted to do so with DOC's approval. After she was hired as a training specialist, Lt. Moran approached the Director and requested to take more classes at the Full-Time Academy to continue to become a more well-rounded employee. The Director agreed with her and she took classes during this Academy. Last week she approached the Director and requested to enroll in the Full-Time Academy as a recruit. The Director sees no problem with this, subject to scheduling around the Corrections Academies. Unless the members of the Council have issues with this, it is the Director's intention to let her enroll in the Full-Time Police Academy.

Chief Wrenn had a question for the Director in regard to Lt. Moran. He asked for whom she is working as a police officer and whether she is sworn in somewhere. The Director's response was that she has not been sworn in as a police officer anywhere. A comment was made that she was going to be sworn in with Sullivan County but so far she has not worked anywhere.

Chief Wrenn did not consider it good practice to permit anyone other than part-time officers, full-time officers or conditional offers of employment to attend the Academy. He felt that it brought up questions about whether anyone could enroll in the Academy, about the certificate being issued to non-police personnel and the ramifications of such actions. The Director indicated the former Director Sweeney had made two exceptions in the past permitting two PSTC employees who previously worked at DOC to enroll in the Academy. Associate Justice Champagne asked was she going through as a recruit or as an employee? Director Lohmann said she was technically going through as a Police Standards & Training employee. Associate Justice Champagne also questioned the Director about the retention of the employee after receiving all this training. Director Lohmann stated that although he did not have anything in writing he had a verbal commitment that she would stay with Police Standards & Training. Director Lohmann did feel the advantages of additional training outweighed the risk of loss of the employee to another position. Associate Justice Roberts wondered if Lt. Moran would give an evaluative perspective of the program after she attended.

Chairman Prozzo suggested that the Council reserve further discussion of this matter until the Council Retreat. The Council agreed.

***Previous and Unfinished Business***Chief Borgia/Richard Bray

Chief Borgia is requesting reconsideration of the Council's June 22, 2004, decision on the prior training and experience of Richard Bray. The Director outlined the specifics of Chief Borgia's request. The Director indicated that Chief Borgia is requesting that Richard Bray be granted part-time certification based upon completion of only a portion of the Part-Time School. He also requests a medical waiver from participation in physical training in the Part-Time School and a 3-year PT certification waiver.

The Director highlighted the three separate issues before the Council. One is a medical issue and ADA request; the next is a request for reconsideration that Mr. Bray attend the law classes only and the third is a waiver for the 3-year PT certification. As to the medical issue, Chief Borgia indicated that Mr. Bray would have problems with the physical training. In response to that, the Director indicated that there was virtually no physical training associated with the Part-Time School except for searching and handcuffing. In that area, the Director felt that allowances could be made. The Director indicated based upon documentation of medical issues that would rise to an ADA claim (which has not yet been determined), the Council could consider a provisional certification in which Sergeant Bray could be issued a provisional certification based on his employment with Barnstead only. Should he leave Barnstead, his certification would immediately lapse and any ADA claim would have to be pursued with the new employer.

On the reconsideration of the PT&E request, Chief Borgia felt that having Sergeant Bray go to topics such as Accident Investigation was not a good use of Officer Bray's time since he was only going to be a desk sergeant. The Director indicated that Barnstead could enroll him in just the Law Package at the Part-Time School pending a decision by the Council; but should the Council deny the request, Sergeant Bray would then have to complete the rest of the classes at a subsequent School.

The third issue that arose was a waiver of the 3-year PT testing and the Director's recommendation was that it is premature to make a determination on that issue at this time and suggested that the Council wait until 2007 and decide at that time whether Sergeant Bray is capable of doing the PT testing.

The Attorney General brought up the discussion of the ADA issues in regard to whether this was an exception to the ADA requirements. Based on Barnstead's claim that he will be a desk sergeant could be construed as Barnstead's reasonable accommodation. The question arose of how that affects the Council. The Director noted that ADA accommodation is typically on the employer. It comes before the Council only insofar as that we certify police officers and the concern would be that we would not give someone in Sergeant Bray's condition unconditional certification because by definition he is only permitted to be a police officer because Barnstead has made reasonable accommodation. Historically, what the Council has done in two or three other similar cases is they have issued a provisional certification based upon the accommodation made by the employer. The employee's certification immediately lapses when the individual ceases employment with that employer.

Associate Justice Champagne questioned whether Barnstead was requesting that Sergeant Bray

be exempted from the entire Part-Time School. The Director stated that Barnstead was willing to have him take the Law Package which is 80 hours of the 100 total hours. Associate Justice Roberts questioned why Sergeant Bray needed to be a certified police officer if he were going to be in such a limited position. The Director stated that according to Barnstead having Sergeant Bray sworn gives him credibility with the younger officers, although 99% of what Sergeant Bray will be doing will not require him to be a police officer; however, there will be instances in which it would be helpful, such as processing someone who came to the PD to surrender to a warrant.

The Director reiterated that there are three pieces to this issue. The first being the medical issue; the second being the Law Package piece and the third, the PT testing. The Director's recommendation would be on the medical issue that an accommodation could probably be made. On the Part-Time School, the Director saw no reason to reconsider the request based upon the information given; and the three-year PT testing is an issue to be dealt with in 2007 since it is not known what his condition will be then.

Colonel Booth noted that he felt there was a conflict here when a police officer retired on a disability and wants to return part-time. He felt Sergeant Bray should be hired back as a civilian. A motion was made by Colonel Booth to deny accommodation on the medical issue, to deny just allowing Sergeant Bray to take the Law Package and to deny the waiver of the 3-year PT certification and was seconded by Chief Magnant.

Discussion of the motion was initiated by Chief Dodge. Chief Dodge asked whether Chief Borgia was going to be there on behalf of Sergeant Bray. The Director's sense when he discussed it with the Chief was that he was going to be there. Chief Wrenn was not supportive of this motion because of concern of Chief Borgia's lack of appearance at the meeting. Sheriff Carr supported the Colonel's motion. The Director brought up the point that with all this discussion today, what was being reconsidered; was it the June 22, 2004 decision or the issues on the table today.

The Director cited the policy that the Council shall grant or deny the motion or any part thereof on its merits and treat the motion as one for reopening and grant it pending receipt of such additional data or additional argument as it considers necessary. Does that mean the option is there to go all the way back to ground zero?

The Director then advised the Council that motions for reconsideration are supposed to be filed within 30 days. Back in June, the Council decided Sergeant Bray had to go the entire Part-Time School. Barnstead asked for an extension in August and the Council granted him an extension until the end of the 243<sup>rd</sup> School. Barnstead never really brought up this current issue until November which is clearly beyond the thirty days.

Chairman Prozzo stated that earlier in this discussion there had been a motion by Colonel Booth and seconded by Chief Magnant to deny all three items for reconsideration. Clarification was requested by the Director regarding whether Sergeant Bray was going to be required to go the entire Part-Time School or whether he was going to be permitted to go at all. Chairman Prozzo asked the Council if it would be appropriate to withdraw the motion and table this request since Chief Borgia was not here or did the Council wish to act on it. Council members felt that since it was expected that the Chief would have been at the meeting and that no one heard anything from

the Chief, he lost his opportunity to present his position. Chairman Prozzo stated there was a motion on the table and a second which needed to be voted down or reconsidered.

The Council decided to reconsider the motion. Colonel Booth indicated he would be comfortable with just voting against reconsideration thereby leaving the June 22, 2004, vote as it stands, which states that the Council voted to grant certification upon completion of the entire Part-Time School. Then, Colonel Booth felt there was a need to address the issue of full time officers retired on disability returning to work part time. He felt a motion should be made to reconsider the action taken in June, 2004, and to deny recertification altogether. Council members suggested that Chief Borgia be given notice if the Council did that because that went beyond the Chief's request.

Chief Wrenn didn't have a problem with the reconsideration vote but felt no vote should be taken on the PT testing for 2007 since that should be the decision of the Council in place at that time.

The Director noted historically questions have arisen about disability retirements and part time employment but the Director has never called the Retirement Board for a definitive determination as he's not convinced that these are questions the Council should be asking. He did note that when Major Wiggin was at the Council Meeting in November, Major Wiggin stated there was no way this person could work off a disability retirement, but that's for full-time only. Chief Borgia indicated that Sergeant Bray called the Retirement Board and was given a green light for working part-time. Deputy Commissioner Annal noted that a reasonable accommodation is not a waiver of the requirement.

Chairman Prozzo called the motion made by Colonel Booth and seconded by Chief Magnant to deny accommodation on the medical issue, to deny allowing Sergeant Bray to take just the Law Package and to deny waiver of the 3-year PT certification with a raise of hands: Vote was 3 for; 5 against. Motion did not carry.

After a lengthy review, on a motion by Chief Wrenn to deny reconsideration of the Council's June 22, 2004 decision, seconded by Associate Justice Champagne, the Council unanimously voted to stand by their June 22, 2004, decision and denied Chief Borgia's request for reconsideration.

A final motion was made in regard to this matter. In light of new evidence that was brought up during the lengthy discussion surrounding this entire matter, the Council decided to reconsider its own motion made on June 22, 2004, pursuant to Pol 208.08. A motion was then made by Associate Justice Champagne to reconsider the action taken on the Bray case by the Council on June 22, 2004, seconded by Associate Justice Roberts and unanimously approved by the Council. The Director stated that the ADA issues and the Council's responsibility/liability would be referred to the Attorney General's Office for an opinion.

Given this action, the Director will request Chief Borgia and Sergeant Bray attend the February meeting to advise them of Council's intended action and to give them the opportunity to discuss it with the Council. If the Council were to reverse their June 22, 2004, decision, Sergeant Bray could not be certified as a part-time police officer.

***New Business******General*****Former Executive Councilor David K. Wheeler on HR 218**

The Director had sent a letter to Mr. Wheeler inviting him to come before the Council at this meeting. Mr. Wheeler did not appear before the Council, as expected, on this date. The Council decided to wait until they hear from Mr. Wheeler. HR 218 concerning Retired Officers carrying weapons is on the agenda for the Council Retreat meeting in March.

***Decertifications/Suspensions/Revocations/Surrenders*****Surrender - Kelli A. Perenick, formerly of the Newington Police Department**

Kelli Perenick was a part-time police officer who voluntarily surrendered her certification on January 7<sup>th</sup>, 2005, after being discharged under 402.02.(a)5 on November 1, 2004, for operating after suspension of license. The following was entered into evidence:

Exhibit A – Form A, Dated August 2, 1995

Exhibit B – Part-Time Officer's Certification, Dated November 4, 1995

Exhibit C – Form B, Dated November 1, 2004

Exhibit D – Letter of Surrender, Dated January 7, 2005

***Synopsis:*** Rockingham County Sheriff's Office on October 4, 2004, ran the name Purington and received a soundex response on Kelli Ann Perenick. The information matched the employment record of the part-time Newington Officer Perenick including her social security number. There was an outstanding warrant with Newmarket Police Department for issuing a bad check and that her license had been suspended on April, 2002. She was approached by Chief Loomis; she denied any knowledge that her license was suspended. The Chief went to the DMV and found, in fact, it was suspended and that she had written a letter to the DMV that she wanted to contest the license suspension. The Chief presented her with that evidence and she was terminated. We sent out the 402.02 letter; she opted not to have a hearing and she surrendered her certification. Upon her surrender, the action was tantamount to a revocation, she cannot ask to have that certification reinstated for a period of two years. A question was brought to the table about an active warrant for the passing of the bad check in Newmarket. The Director stated that according to a remark from Newington, the Newmarket Chief indicated she paid the bad check and Newmarket had made an affirmative decision not to serve the warrant.

Associate Justice Champagne made a motion to accept the surrender of Kelli Perenick's certification. The motion was seconded by Chief Wrenn and passed unanimously by the Council.

**Decertification/Revocation - J. David Crockett, III, formerly of the Northwood Police Dept.**

J. David Crockett, III was a full-time police officer in violation of 402.02 (a)5 who voluntarily resigned on March 31, 2004 in lieu of termination. The following items were entered into evidence.



Exhibit A – Form A, Dated December 1, 1995

Exhibit B – Full-Time Officer's Certification, Dated April 21, 2000

Exhibit C – Form B, Dated March 31, 2004

Exhibit D – Return of Service of the 402.02 Letter, Dated January 10, 2005

Mr. Crockett is currently residing in Florida. He did not ask for a hearing.

**Synopsis:** The only information available is the information that was contained in the internal report. The Chief of Police in Northwood received several complaints in mid 2003 through the beginning of 2004 that Corporal Crockett was engaging in inappropriate activities with various women while on duty. Three witnesses came forward and acknowledged their relationships with Corporal Crockett. One witness noted that he threatened her in a grocery store should she go to his Chief. Chief D'Alessandro called Corporal Crockett on this matter and told him he needed to resign or he would be discharged. Crockett never admitted or denied the allegations, but resigned at that time. The 402.02 letter was delivered January 10, 2005, and was signed for by Stephanie Piwowarczyk at an address in Fort Lauderdale, Florida. There was no other contact with nor contact from Crockett.

Chief Wrenn made a motion to revoke the certification of J. David Crockett, III. The motion was seconded by Attorney General Ayotte and passed unanimously by the Council.

### ***Prior Training & Experience Requests***

#### **Full Time**

The Director outlined the request of Sean B. Cowland, Jackson Police Department for prior training and experience. The Council then voted unanimously, on a motion by Chief Wrenn, seconded by Commissioner Curry, to accept staff recommendation and grant full-time certification on prior training and experience to Officer Cowland upon completion of the medical exam, PT test, NH Law Package at the Full-Time Academy, and First Aid/CPR, if lapsed.

The Director outlined the request of Michael D. White, Salem Police Department for prior training and experience. The Council then voted unanimously, on a motion by Chief Wrenn, seconded by Commissioner Curry, to accept staff recommendation and grant full-time certification on prior training and experience to Officer White upon completion of the medical exam, PT test, NH Law Package at the Full-Time Academy, and First Aid/CPR, if lapsed.

The Director outlined the request of William D. Megarry, Rockingham County Sheriff's Department for prior training and experience. The Council then voted unanimously, on a motion by Chief Wrenn, seconded by Commissioner Curry, to accept staff recommendation and grant full-time certification on prior training and experience to Officer Megarry upon completion of the medical exam, PT test, NH Law Package at the Full-Time Academy, and First Aid/CPR, if lapsed.

#### **Part-Time**

The Director outlined the request of Charlene L. Crowley, Washington Police Department, for

prior training and experience. The Director indicated that her prior training did not meet the matrix and that she would have to complete the entire Part-Time School. The Council then voted unanimously, on a motion by Associate Justice Champagne, seconded by Chief Magnant, to accept staff recommendation to grant part-time certification to Officer Crowley upon successful completion of the entire Part-Time School.

The Director outlined the request of Sherman L. Lahaie, Jr., Waterville Valley Department of Public Safety, for prior training and experience. The Council then voted unanimously, on a motion by Associate Justice Champagne, seconded by Chief Magnant, to accept staff recommendation and grant part-time certification on prior training and experience to Officer Lahaie upon successful completion of the NH Law Package at the Part-Time School.

### ***Requests for Extensions***

#### **Full-Time**

After the Director outlined the reasons for the extension requests, following a motion by Chief Wrenn, seconded by Colonel Booth, the Council voted unanimously to follow staff recommendations and grant extensions to Full-Time Officers Joseph M. Byron, Rockingham County Sheriff's Department; Jennifer V. Pierce, Allenstown Police Department, Mark J. Smigielski, Rockingham County Sheriff's Department, and Terry L. Choate, Jr., Jaffrey Police Department extensions through the 137<sup>th</sup> Full-Time Academy.

#### **Part-Time**

On a motion by Chief Wrenn, seconded by Sheriff Carr, the Council voted unanimously to grant an extension on Director's recommendation to Part-Time Officer Michael V. Pacheco through the 244<sup>th</sup> Part-Time School.

#### **Department of Corrections**

On a motion by Chief Wrenn, seconded by Chief Justice Champagne, the Council voted unanimously to grant an extension on Director's recommendation to Gary W. Ferron, New Hampshire Department of Corrections through the 79<sup>th</sup> Corrections Academy.

### ***Specialized Training Grant Requests***

#### **Command Training Programs**

The Director outlined the requests of the Lee Police Department and the Sunapee Police Department to send members of their departments to Roger Williams University for training. On a motion by Chief Wrenn, seconded by Colonel Booth, the Council unanimously voted to approve the grant requests for \$1000.00 to the Lee Police Department and \$1000.00 to the Sunapee Police Department.

In follow-up to the November 23, 2004, Council Meeting at which the Council requested the Director to obtain more information from the Conway Police Department regarding their request for \$1000 to send an officer to Roger Williams for training, the Director learned that Conway's

request was based on an anticipated opening and promotion of this officer to that post. The Council discussed the matter and decided this training should be reserved for officers currently in a supervisory capacity and, therefore, officers in non-supervisory positions should not be attending this particular program. Following this discussion, a motion was initiated by Chief Wrenn, seconded by Colonel Booth and unanimously approved by the Council to deny Conway's request for training for the officer.

#### Department of Corrections

On a handout passed out at the Council meeting, the Department of Corrections requested the following training grants for Sgt. Ron Gagliardi and CO Steve Johnson to attend the Ohio Department of Corrections for the 24 Hour SRT Leadership Development Course February 8 – 11 (\$403.40), the 2005 SRT 80 hour course March 6 -18 (\$770.50); and the 2005 SRT 40 Hour Instructor Course May 8 -13 (\$770.50). Commissioner Curry feels this training is definitely needed. In turn, these officers would bring back their knowledge and training ideas for development and upgrading of DOC programs. Chief Wrenn made the motion to approve the training grants for the Department of Corrections for the SRT training, seconded by Colonel Booth and unanimously approved by the Council.

#### Other Training

The Director outlined the request from Barnstead Police Department to send the Chief to the New England Law Enforcement Executive Development Seminar. The Director's only comment was that this program is run by the FBI and is offered sporadically in NH. Hopefully in the near future we will have our own program. Chief Wrenn went through this program and felt it was worthwhile. On a motion by Chief Wrenn, seconded by Associate Justice Champagne and unanimously approved by the Council, approval was granted for the \$751.60 training grant requested by Barnstead Police Department for the New England Law Enforcement Training Executive Development Center.

The Director then highlighted the Mason Police Department's request to send an officer to ILOOK computer forensics software class in Columbus, OH. He noted that there is an attempt to create such a program here but it would be 6 months to a year before it would be up and running. The Director would not be adverse to spending Council money on this request should the Council approve the request. The Council held a lengthy discussion concerning the pros and cons of approving this software class and was concerned about which software program would be best as it was important to not fragment the system with a number of different programs. The Council did agree that it was important to have officers trained in computer forensics software. The Council, however, on a motion by Chief Magnant, seconded by Associate Justice Champagne and unanimously approved by the Council, denied the Mason Police Department's request to send an officer to ILOOK computer forensics software class. Chief Magnant indicated that the Council needed to reach out to the Mason Police Department with alternative programs. Chairman Prozzo suggested that the Council think about standardizing these classes in the future based on the protocols developed by the task force.

The Director's comments on the Belmont Police Department's request to send the Chief to Excel in Accident Investigation was that this course appears to be how to use excel in accident investigation. It may have some value and could be then taught here at the Academy. On a

motion by Associate Justice Champagne, seconded by Associate Justice Roberts and unanimously approved by the Council, it was decided to table Belmont Police Department's training request until further information could be gathered.

### ***Other Business***

#### Annual Retreat

The annual retreat will be held March 21st and 22<sup>nd</sup>, 2005. It will be at the Christmas Farm Inn in Jackson. The meeting will begin at 9:30 AM.

#### Henniker Police Department Request

The Director highlighted the Henniker Police Department's request for Part-Time Officer Michelle Moir to exceed 1300 hours due to military deployment and injuries in the department. Approval would be consistent with what the Council has done in the past. On a motion made by Associate Justice Champagne, seconded by Chief Magnant to grant the request by Henniker Police Department for Officer Moir to exceed her 1300 hours for 2004 – 2005 year was unanimously approved by the Council.

#### Chief David Salois's Request for review of eligibility of individual under 301.05 (v) 8

The Director advised the Council that due to the change in the background investigation rules in 2003 regarding the sale of drugs with a limited exception for a minor who sold drugs for not for profit requires the Council to hear the case and make a specific determination. Raymond Police Department is bringing such a case forward. Through self-disclosure, the individual in question admitted selling marijuana at age 14 to a friend for \$10.00. This will require Council to determine whether they will allow this individual to become certified because of that incident. Associate Justice Roberts made the motion to find the individual eligible for certification, seconded by Chief Dodge and unanimously approved by the Council.

#### PT Testing

There has been some controversy surrounding PT policy. All of those hired in 2001 should have completed PT testing in December 31, 2004. Our initial count was that about 100 of the 300 who were eligible actually tested and passed. The Director had discussions last month with the Chair and Vice Chair and they suggested that the Director send out letters to those who did not complete the testing advising them that they were out of compliance and subject to a show cause order at the January Council meeting directing them to tell the Council why their certification should not be suspended or revoked at the February meeting for not having completed the testing. It has been three weeks since the letters went out.

A few of issues have arisen since the mailing of the letters. We have received a number of medical failures; and if we read RSA 188.F 27, it says if there is a medical failure the officer automatically receives a six-month extension which can further be extended case by case by the Council for up to two years. Those people who have given us that medical documentation have been given the six-month extension. As of this morning that number was around a dozen.

The second issue that was encountered was that the Department of Corrections has done most of their testing but the paperwork somehow never made it from DOC to us. Part of the problem is that the Director of Training who has been working with Police Standards & Training to try to remedy the problem is back in the hospital again. There are about 75 officers missing paperwork; 50 who passed have been identified; 5 who have failed have been identified and 10 who have medical issues have been identified. The Director has recommended no action be taken on DOC until February when we have had time to straighten out the paperwork.

Third issue concerns certification itself. The statute makes reference to police certification, probation, parole, and corrections certifications. The statute reads that any one who was hired and uncertified after January 1, 2001, is subject to the testing. The way it has been internally interpreted is that the certifications are reciprocal. Two officers have appealed the internal decisions because they were part-time certified prior to 2001 and subsequently hired as full-time officers and therefore not subject to the three year testing. The Director has stayed any action in this matter and referred it to the Attorney General. The Director is looking for the Council's interpretation and whether our opinion is correct or not. Chairman Prozzo indicated that the Council should wait until the Attorney General returns an opinion before the Council discusses it. Maybe review of the wording of this statute is in order to incorporate circumstances that were not initially considered in light of these appeals. The Director has asked Cassandra Erickson, the paralegal, to take notes at those meetings, including the rationale behind it, and the resultant decisions to insure consistency in the process.

The Director made the recommendation to send letters for show cause hearings to the individuals who did not complete their PT testing. Cassie gave up-to-date statistics on the numbers as of the Council Meeting. There were 10 individuals that have not been heard from, 5 from departments indicating that PT testing would be completed by the next meeting, and 4 waiting for medical documentation backup, thereby potentially having 20 show cause hearings.

A motion was made by Associate Justice Champagne, seconded by Associate Justice Roberts that letters go out for show cause hearings to those 10 individuals who have not responded. Discussion of the motion was that the hearings will be put at the end of the agenda items. Council unanimously approved. Director will arrange for lunch for this all day meeting.

#### Gift Acceptance

On a handout from Northern Community Investment Corporation, video conference equipment obtained through a federal grant was granted to the Littleton area learning center; and as part of that grant, \$200,000 worth of equipment was subgranted to us of which we already have on site. This equipment has become a gift to Police Standards & Training and the Council needs to pass a motion to accept the gift. Sheriff Carr made the motion to accept the gift, which was seconded by Commissioner Curry and unanimously approved by the Council.

#### Executive Session – Personnel Issue

A request was made by the Director to go into Executive Session. On a motion by Associate Justice Roberts, seconded by Chief Dodge, the Council voted unanimously on a roll-call vote to enter into Executive Session at 11:55 a.m. for the purpose of discussing a personnel matter.

On a motion by Colonel Booth, seconded by Chief Dodge, the Council voted unanimously on a roll-call vote to exit the Executive Session at 12:00 p.m.

Colonel Booth made a motion that in regard to Mr. Santos, the information should be filed with his personnel folder for future reference, the motion was seconded by Associate Justice Roberts and unanimously approved by the Council. The Council noted for the record that they took no action at this point in regard to the matter, which is contrary to their policy, due to the untimely discovery of the information.

Motion was made by Sheriff Carr to seal the minutes of the non-public session, seconded by Commissioner Curry and unanimously approved by the Council.

***Next Meeting Date/Adjournment***

Associate Justice Champagne will be on vacation during the February meeting. After scheduling the next meeting of the Council for 9:00 a.m. on February 22, 2005, in the John Morton conference room, the Council unanimously voted to adjourn the meeting at 12:23 p.m. on a motion by Colonel Booth and seconded by Associate Justice Champagne.

---

Chairman Michael L. Prozzo