

## ***MINUTES***

***September 20, 2005***

The 340th meeting of the NH Police Standards and Training Council was called to order at 9:10 a.m. by Chairman Michael L. Prozzo, Jr., of the Sullivan County Sheriff's Department, in the John D. Morton conference room at the Police Standards and Training Facility in Concord, New Hampshire.

***Members Present:*** Sheriff Scott A. Carr, Carroll County Sheriff's Department; Chief William L. Wrenn, Jr., Hampton Police Department; Chief Gregory C. Dodge, Epping Police Department; Chief Peter P. Morency, Berlin Police Department; Associate Justice Norman E. Champagne, Manchester District Court; Colonel Frederick H. Booth, NH State Police; Attorney General Kelly A. Ayotte; and Charles Annal, Deputy Commissioner and designee of Commissioner William G. Simonton of the NH Community Technical College System who arrived at 10:15 am due to an earlier commitment..

***Staff Present:*** Director Keith H. Lohmann, Assistant Director Robert B. Stafford, Paralegal Cassandra Erickson, and Secretary Denise Crocker.

Chief Michael J. Magnant, Portsmouth Police Department; Associate Justice Stephen H. Roberts, Dover District Court and Commissioner Stephen J. Curry, Department of Corrections, were excused from the meeting due to prior commitments.

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

The August Minutes were not available for Council approval. These minutes have been deferred for approval until the October meeting.

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

**138<sup>th</sup> Police Academy.** One recruit left very early on as he wasn't ready for the Academy experience and two more have left due to injuries. At this point, the Academy is down to 66 recruits.

**Corrections Academy.** The Corrections Academy continues without incident. As noted in prior minutes, before this Corrections Academy began, the DOC had made some changes in the curriculum which are being implemented on an experimental basis at this Academy. One of the changes that had been implemented was the Firearms part of the Academy was held before the actual Academy began; and due to the fact that this Academy has 36 participants, which is a large class for Corrections, the Firearms section was done over a two-week period. PSTC supervised the Firearms training and only two individuals failed. The extra week during the Academy program, which originally was scheduled for firearms training, will now be used for new subject matter. A final report will be forthcoming when this Academy concludes in October.

**Part-Time School.** The Part-Time School started on Saturday, September 17, 2005. It is being held in Concord and video-conferenced to Keene, Pease Tradeport and Littleton. There were a few officers scheduled to attend the Part-Time School who were unexpectedly deployed for a short period to New Orleans. The Director advised their departments that assuming these officers return in a relatively timely fashion (i.e., a couple of weeks) the Director would allow them to enter the Part-Time School at the point they were at and have the officers finish up during the next session in January so that the officers would be certified by the end of the January session.

**LBA Audit Report.** The Audit Report contained 21 Reportable Conditions but no Material Failures. Material failures are items that are significantly negative. Reportable conditions are items that need to be reviewed and/or corrected. The Director is still in the process of reviewing the report and addressing the issues contained therein. The handling of the video conference grant seemed to be the auditor's biggest concern. The Director is planning to file a response after he checks with legal counsel on this particular reportable condition as he did not concur with the finding.

The second issue that the auditor's had particular concern with was the fact that the Director was assigned a State vehicle. The Director discovered he was supposed to submit a Governor & Council item to have a State owned vehicle, which he has since done and it was approved. The final audit report then made an issue of whether it should be an unmarked vehicle or whether it should have State seals, State plates, etc. In the history, Earl Sweeney had made the argument that it was important to have an unmarked vehicle because of the compliance investigations that are done. Most of the other issues were paperwork related.

There was one item which we couldn't find on the inventory that the auditor's took issue with. It was some software for the old fats machine that hasn't worked since 1984. The Director will draft a response to the Auditor's report and then it will go to the Joint Fiscal Committee Meeting for a hearing in either October or November.

**Legislation.** The Director has heard that Senator Barnes has filed a piece of legislation that would add an additional surcharge to the penalty assessment. This additional money would be returned to the local communities writing the tickets. The Director did not know at this point how much the surcharge is going to be. He was concerned with the fact that the penalty assessment goes up but PSTC's share goes down. This particular surcharge will be difficult for the Council to object to because it would be pushing back

on the people the Council serves. Chief Wrenn agreed and felt that the Council could not oppose this surcharge. As note to the Council, the Director noted the July's Revenue figures for this year as compared to last year were 20% lower, although that may not be indicative of the trend since the fines and penalties were undefined at that time. The Director further noted the August revenue figures were not available at the time of this meeting and that once these figures become available he will be better able to statistically project the trend.

Representative Pepino wants to sponsor a bill on retired police officers carrying weapons in response to HR218 . He has called the Director several times. He stated that he has filed the slip on the bill and will work out the language later.

Another Representative had called the Director regarding two bills already filed regarding elected police chiefs. One of the bills reportedly is going to require that anybody who runs for an elected police chief must, before running, already have been certified as a police officer by the PSTC; the Representative was not quite sure what the second bill proposed.

**Website Status.** Currently there are 230 people who have signed up for the secure side of the website in less than a month. There are a total of 87 people enrolled in classes and 26 have already completed classes. The classes that are currently up on the site are Legal Update 2005, Legal Update 2004, Domestic Violence Update, NIMS, and US Citizenship.

**Survey.** There have been 19 responses to the survey to date. It has been 50/50 with paper vs. e-mail responses. Chief Wrenn noted that he did not get the survey to review and since he has not seen the minutes from the last meeting he did not know how much discussion was held on the subject. Chief Wrenn questioned how the survey was mailed since he did not receive a copy. Chief Wrenn commented on the fact that he thought the survey was going to be a satisfaction survey and not have other things attached to it. Chief Wrenn would have preferred the survey to have been sent directly to the Chiefs with an anonymous response for return. Chief Wrenn then requested that the survey return date be extended to the end of October as he would like to encourage the chiefs to submit their responses when the chiefs meet at their next general meeting. Attorney General Ayotte suggested that with the extension, the chiefs also be given the opportunity to submit the survey anonymously. The Director noted that it went on September 7, 2005 as a mass mailing. The Director offered to resend the survey if that would be helpful. Chief Wrenn suggested that a memo be done to the chiefs reminding them of the survey and the extended deadline date. Chief Wrenn commented that the survey should have been shorter, more direct and to the point.

**HR218.** Discussion of HR218 will be deferred to later in the meeting. Chief Wrenn asked what the bill was that Representative Pepino wants to file. The Director summarized that the Representative would like to file a bill that would state that the only way retirees could get the credentials to carry is that they go back to the department that they retired from; there would be no mechanism other than that.

**Court Security Committee.** As Chairman of the Transportation Subcommittee of this committee, the Director had included a section as part of the PSTC survey to include questions to get a sense statewide of who transports, when and who pays for it. However, at the last meeting of the Court Security Committee, the committee came up with their own conclusions. One of their conclusions reached was that they want PSTC to start training court security people. The Director doesn't have any sense at the present of what shape this recommendation is going to take but his feeling is that it is going to have a cost attached to it. He does not know where the funds for this will come from if the system is going to continue to have court bailiffs who are not certified police officers and who have their own training program which is two weeks in length. If PSTC were to take over this responsibility, the Director has already advised the Committee that it would probably be a 4-5 week program in length and based on their current numbers would cost somewhere between \$175-200,000 a year to train those people. This is the Committee's recommendation, however, there are still a number of hurdles to mount.

**Public Hearing on the Rules Change.** On September 9, 2005, the Public hearing on the rules change was held. No one showed to comment on the rule change. The Council will have to vote on the final text of the change and then it will be submitted to the Administrative Rules Committee.

**Current Staff Vacancies.** At the last meeting the Director had advised the Council that there were three vacancies and two candidates had voluntarily withdrawn their applications. The Director had further indicated that there was a third candidate that he had felt confident about but that candidate also has voluntarily withdrawn. Currently we are looking at one other candidate in-state, but the Director is also moving forward with a nation-wide search. He has also had a preliminary conversation with the folks at State Personnel about down-grading one or more positions to part-time and they indicated that that is not the problem that the Director had anticipated it might be, so the Council could move ahead on this issue should it become necessary to do so and it does appear that it will be necessary to implement this plan.

### ***Previous and/or Unfinished Business***

#### **Donald Valente, Jr., Temple-Greenville Police Department**

This was a request by the Temple-Greenville Police Department for consideration of PT&E for part-time certification of Officer Valente. This request was tabled at the last Council Meeting at the request of the Department of Corrections for review of conflict of interest. Commissioner Curry has indicated to the Director that as far as he is concerned this matter may move forward. The Director, therefore, outlined the request of Donald Valente, Jr., Temple-Greenville Police Department for prior training and experience. Then on a motion by Judge Champagne, seconded by Chief Dodge, the Council voted unanimously to accept staff recommendation and grant Officer Valente part-time certification based upon successful completion of the entire part-time school as a result of the length of time he has been out of police work.

***New Business******General***

**Internal Survey.** Chief Wrenn brought up the matter of the internal survey that the Council had decided to develop at a previous Council Meeting and requested that it be put on the agenda for the next meeting.

***Decertifications/Suspensions/Revocations/Surrenders*****Decertification - Michael D. Yacono, formerly of the Charlestown Police Department**

The Director presented the case of Michael D. Yacono who was discharged for violation of 402.02 (a) (3), 402.02 (a) (5) for a conviction of simple assault in the Sullivan County Superior Court.

He pled guilty on July 27, 2005, of one count simple assault. He received a 12-month suspended sentence with 21 days served, probation for one year with counseling, no contact with the victim, no alcohol consumption and random alcohol and drug screening. This falls under the purview of 402.02 (a) (3) and 402.02 (a) (5). Staff exhibits are

- Exhibit A - Employee Status Notification Form A, dated January 25, 2005
- Exhibit B - Full-Time Certification, dated July 14, 1995
- Exhibit C - Employee Status Notification Form B, dated July 27, 2005
- Exhibit D - Conviction and Information from Sullivan County Superior Court, dated July 27, 2005
- Exhibit E - NH State Police Reports
- Exhibit F - Copy of the Certified Letter with the signature card that did not come back

**Synopsis:** On March 12, 2005, Trooper Scott Ellis reported to a call for assistance from the Cornish Police Department for an intoxicated male. Sergeant Hackett of Cornish advised him that a firearm had been removed from the intoxicated male identified as Michael Yacono because he was attempting suicide but was interrupted by his wife Doris and neighbor Allen Dexter. When interviewed, Ms. Yacono stated that when she had returned from taking her children to the movies she attempted to enter the garage when she found it locked. She knocked until Michael opened the overhead door waist high and she discovered him holding a loaded shotgun. He appeared to be extremely intoxicated and said that he was going to kill himself. She was trying to talk him into giving her the gun while they were in the garage together. The neighbor Allen Dexter started banging on the garage door to let him in and Mr. Yacono had thought Ms. Yacono had called the police. Mr. Dexter was able to get into the garage by dropping through the ceiling from the attic and wrestled the gun from Mr. Yacono. During this, Mr. Yacono struck Mr. Dexter in the chest. As Ms. Yacono left the garage to call the police Mr. Yacono passed out. His BAC was .26. When interviewed at the hospital he totally denied remembering anything but did state he thought he drank too much.

On a motion by Judge Champagne seconded by Chief Dodge, the Council voted unanimously to decertify Michael D. Yacono, formerly of the Charlestown Police Department.

### ***Prior Training and Experience Requests***

#### **Full-Time**

**Steven M. Denoncourt, Pembroke Police Department.** The Director outlined the request of Steven M. Denoncourt, Pembroke Police Department, for prior training and experience. The Council then voted unanimously on a motion by Chief Wrenn seconded by Chief Morency to accept staff recommendation and grant full-time certification to Officer Denoncourt based upon successful completion of the medical, Physical Fitness Test, New Hampshire Law Package at the Full-Time Academy and First Aid/CPR, if lapsed.

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

#### **Full-Time**

**Tracy Trammell, Sanbornton Police Department** . After the Director outlined the reason for the extension request, on a motion by Chief Wrenn, seconded by Chief Dodge, the Council voted unanimously to grant Officer Tracy Trammell of the Sanbornton Police Department an extension through the 139<sup>th</sup> Academy.

### ***Specialized Training Grants***

#### **Command Training Programs**

**Salem Police Department.** The Director outlined the grant request for \$1,000.00 from the Salem Police Department to send Captain William Ganley to the Massachusetts Police Leadership Institute's "Training Police Managers to Manage Change" sponsored by the Lowell Police Department at the Lowell Police Training Center at Cross Point in Lowell, Massachusetts from October 3 – 14, 2005. On a motion by Chief Wrenn, seconded by Chief Dodge, the Council unanimously voted to approve the grant request for \$1,000.00 to the Salem Police Department to send Captain Ganley to the Massachusetts Police Leadership Institute's "Training Police Managers to Manage Change Program.

**Portsmouth Police Department.** The Director outlined the grant request for \$1,000.00 from the Portsmouth Police Department to send Captain Len DiSesa to Roger Williams University School of Justice Studies to attend the Command Training Series Executive Development program in Portsmouth, Rhode Island on the dates of October 4 - 7, 2005 and November 7 – 10, 2005. On a motion by Chief Wrenn, seconded by Chief Dodge, the Council unanimously voted to approve the grant request for \$1,000.00 to the

Portsmouth Police Department to send Captain DiSesa to the Command Training Series Executive Development Program at Roger Williams University.

**Rochester Police Department.** The Director outlined the grant request for \$1,000.00 from the Rochester Police Department to send Deputy Chief Michael J. Allen to Roger Williams University School of Justice Studies to attend the Command Training Series Executive Development program in Portsmouth, Rhode Island on the dates of October 4 - 7, 2005 and November 7 - 10, 2005. On a motion by Chief Wrenn, seconded by Chief Dodge, the Council unanimously voted to approve the grant request for \$1,000.00 to the Rochester Police Department to send Deputy Chief Michael J. Allen to the Command Training Series Executive Development Program at Roger Williams University.

#### Other Training

**Seabrook Police Department** The Director outlined the grant request for \$739.20 from the Seabrook Police Department to send Sergeant Jason R. Allen, FTO Supervisor to Managing the Field Training Officer Program, IPTM, Jacksonville, Florida, from October 23 - 26, 2005. On a motion by Chief Morency, seconded by Sheriff Carr, to approve the grant request, Sheriff Carr then asked the question for some additional information on what the training was going to cover. Chief Morency then offered the comment that his department has an officer that does oversee the FTO program and the consistency of the program and it works very well having someone in that capacity from his perspective. Following this discussion, the Council unanimously voted to approve the grant request for \$739.20 to the Seabrook Police Department to send Sergeant Allen to the Managing the Field Training Officer Program at the IPTM in Jacksonville, Florida.

#### *Other Business*

##### Request to Exceed the 1300 Rule

**Madbury Police Department** requests Part-Time Officer Joseph E. McGann, Jr. be granted a waiver of the 1300-hour rule and be permitted to work unlimited hours. He retired from the Lee Police Department in March of 2005. The Director indicated that the Council has granted him permission to exceed the 1300-hour limit on a previous occasion. Chairman Prozzo felt that since this action was already addressed by the Council fairly recently no further action needed to be taken at this meeting. The Council members concurred.

##### **HR218-Memorandum**

Attorney General Ayotte asked the Council if they wished to discuss this memorandum in public session or in legal consultation since the information she was going to present was legal advice from their legal advisor Assistant Attorney General Nancy Smith. The Council moved to exit public session at 10:35 a.m. to discuss legal matters with counsel. The Council returned to public session at 11:15 a.m.

Upon return to public session, Attorney General Ayotte highlighted the discussion the Council had with legal counsel. HR 218 is enabling legislation at the federal level that deals with the ability of active and retired law enforcement officers to carry a concealed weapon across state lines. The law itself is something that the AG's office has reviewed and the law gives the discretion to the State and to local law enforcement agencies but does not mandate in terms of complying with it. There are two essential components of it. One involves an ID issued by the agency from which the officer retired and the second involves certification of firearms training during the last year which are the two component required by the law.

In terms of policy, PSTC is exploring how this law could be implemented in New Hampshire and exploring what type of curriculum could be put together with the approval of PSTC for local law enforcement agencies to be able to certify their retired officers to comply with the law and the firearms training, and additionally exploring the option of how that would work. The Council is also exploring the option of how PSTC could consider offering training courses for retired law enforcement officers from NH for smaller agencies which may not have the capacities to have their own firearms training.

At this point the Council is just exploring options. The Council has discussed the possibility of reaching out to other law enforcement partners including the sheriffs and the chiefs, as appropriate, to get feedback. The Council requested that the Director put together a proposal regarding what the costs would be from the state level of offering this type of curriculum to retired officers at the PSTC facilities. The Council requested the Attorney General's office to research answers to certain legal questions of how this law could be implemented.

**HR218 Subcommittee** - Attorney General Ayotte suggested the Council establish a subcommittee to work on this issue. Attorney General Ayotte volunteered to work on the subcommittee, Chief Wrenn agreed to volunteer to work on this committee and Chief Morency also volunteered his assistance.

### ***General Discussion***

Prior to exiting public session for legal consultation, Judge Champagne brought forward an article that was on the front page of the Union Leader. He questioned whether the officer was still certified. The Director heard about this matter for the first time when it appeared in the paper and he is in the process of looking into the matter. Judge Champagne said that the paper quoted that they had received information from PSTC.

### **Council Vote On Final Proposal for Rule Change**

The Director requested the Council to vote on the final proposal for the Rule Change. On a motion by Chief Dodge, seconded by Chief Morency, the Council voted unanimously to amend Pol 404.06(b), effective 6-8-00 (Doc #7302) cited and to read as follows:

TTITLE: Pol POLICE STANDARDS AND TRAINING COUNCIL  
SUBTITLE:



CHAPTER: 400 CONTINUED STATUS  
PART: Pol 404 ONGOING REQUIREMENTS

Pol 404.06 Ongoing Medical Suitability for Physical Fitness Testing

- (b) This certification shall be conducted by a licensed physician, physician's assistant or registered nurse practitioner.

The Chairman requested the handout be included in the minutes for the record.

**Colin Wentworth Matter.** Paralegal Cassandra Erickson handed out to the Council Members who were part of the Hearing Process the Facts of Ruling the Staff prepared. The Director noted the Respondent's Counsel has until September 30<sup>th</sup> 2005 to respond to these documents. Chairman Prozzo indicated he would wait until all information was received before he sets a date for deliberations of this case.

***Next Meeting Date***

Chairman Prozzo scheduled the next three Council Meetings for 9:00 a.m. Tuesday, October 25, 2005, Tuesday, November 22, 2005, and Tuesday, December 20, 2005, respectively, in the John Morton conference room. The Chairman noted that he would not be available at the November 22, 2005, meeting and requested Vice Chairman Wrenn chair the November meeting. The Chairman further noted although there is not usually a meeting held in December the reasoning behind holding a December meeting this year will be solely for the purpose of discussing proposed rule changes as PSTC's Administrative Rules come up for review in June, 2006 and any changes that need to be made to the rules should to be done at this time as the rules will not come up for review for another seven years.

**Nonpublic Session - Discussion of Personnel Issues**

The Director requested that the Council go into non-public session to discuss personnel issues.

Following the motion made by Chief Dodge, seconded by Chief Morency, the Council voted unanimously on a roll-call vote to enter into a non-public session at 11:25 a.m. for discussion of personnel matters.

Following the discussion, on a motion made by Chief Wrenn and seconded by Chief Dodge, the Council voted unanimously to seal the minutes of the non-public session.

Chief Wrenn then made a motion, seconded by Judge Champagne that the Council carried unanimously on a roll-call vote to exit the non-public session at 11:33 a.m.

***Adjournment***

The Council unanimously voted to adjourn the meeting at 11:35 a.m., on a motion by Chief Dodge and seconded by Chief Morency.

---

Chairman Michael L. Prozzo, Jr.