

***APPROVED MINUTES***  
***June 26, 2007***

The 361<sup>st</sup> Meeting of the NH Police Standards and Training Council was called to order at 9:03 a.m. by Chairman Michael L. Prozzo, Jr., Sullivan County Sheriff's Department, in Classrooms 3 & 4 at the Police Standards and Training Facility in Concord, New Hampshire.

***Members Present:*** Chief Gregory C. Dodge, Epping Police Department; Chief Timothy Russell, Henniker Police Department; Chief Michael J. Magnant, Portsmouth Police Department; Chief Peter P. Morency, Berlin Police Department who arrived at 10:35 a.m. from another meeting; Sheriff Scott A. Carr, Carroll County Sheriff's Department; Associate Justice Stephen H. Roberts, Dover District Court; Associate Justice Norman E. Champagne, Manchester District Court; Les Dolecal, Assistant Commissioner of the Department of Corrections and designee of Commissioner William L. Wrenn, Jr., Department of Corrections was present until the arrival of Commissioner William L. Wrenn, Jr., at 9:15 a.m.; Major Susan Forey, designee of Colonel Frederick H. Booth, NH State Police; Deputy Attorney General Bud Fitch, designee of Attorney General Kelly A. Ayotte and Deputy Commissioner Charles Annal, designee of Commissioner William G. Simonton of the NH Community Technical College System.

***Staff Present:*** Director Donald L. Vittum, Assistant Director Robert B. Stafford, Jr., Paralegal Cassandra Erickson, Senior Assistant Attorney General Nancy Smith, Keith Lohmann, and Secretary Denise Crocker.

Attorney General Kelly A. Ayotte; and Colonel Frederick H. Booth, NH State Police, were excused from today's meeting due to prior commitments.

***Guests:*** Chief Philip O'Brien, Gilmanton Police Department; PSTC Staff present were Captain Ben Jean, Captain Kim Roberts, Lt. Mark Varney, Lt. Daniel Bricker, Office Supervisor Nancy Otis and Program Assistant II Lorelee Ames.

***Approval of Minutes***

Following a motion by Chief Russell, seconded by Chief Dodge, the Council voted unanimously to accept the Minutes of the May 22, 2007 meeting as presented.

***Director's Report***

The Director's written report was accepted as submitted with one additional item brought to the Council's attention on the meeting day. The Director noted that the budget process was nearing completion and would be going to a vote this week. He thanked Chairman Prozzo for his assistance in the process by talking with key people to preserve PSTC funds.

*Old Business***Randy Inman, Department of Corrections.**

The Director requested to continue this case until he could speak with Commissioner Wrenn about this matter.

**Madbury Compliance Audit**

Following a motion made by Judge Roberts, seconded by Chief Dodge, the Council voted unanimously on a roll-call vote, with Commissioner Wrenn abstaining from the vote, to enter into a nonpublic session for the purpose of deliberations in a personnel matter.

Following the deliberations of the matter, on a motion by Chief Dodge, seconded by Chief Russell, the Council voted unanimously to seal the minutes of the nonpublic session.

Chief Dodge then made a motion, seconded by Chief Russell, which carried unanimously by the Council, on a roll-call vote, to exit the nonpublic session.

**Upon return to public session, on a motion by Judge Champagne seconded by Deputy Attorney General Bud Fitch to accept the Findings of Fact and the Rulings of Law and to revoke Chief Taylor's certification, the Council voted unanimously to revoke Chief Taylor's certification with Commission Wrenn abstaining from the vote.**

The Director asked the Council to make a press release on this issue. Deputy Attorney General Bud Fitch advised the Director that he would have Assistant Attorney General Nancy Smith draft that for the Director. Assistant Attorney General Bud Fitch also advised the Director that if there were calls for information on this matter today the legal language to be used would be that the order has not been issued yet.

*New Business***Decertification/Suspensions/Revocations/Surrenders/Certification Eligibility Hearings****Decertification Hearings:**

**Douglas Tower, formerly of the Department of Corrections** for violation of Pol 402.02 (a) (2).

Resigned in lieu of dismissal from Department of Corrections (**Staff Exhibit A**)  
Certified as a Corrections Officer 1/1/94 (**Staff Exhibit B**)

Violation of Pol 402.02 (a)(2) The officer has been convicted either prior to or after certification

of a crime which constitutes a felony in this or any other state, territory, province or country.

**Synopsis:** On April 18, 2007, Mr. Tower was found guilty by a jury and sentenced on two counts of Aggravated Felonious Sexual Assault and four counts of Felonious Sexual Assault. He received a prison sentence of 20-40 years with another 3 ½ to -7 suspended upon his release from incarceration. (**Staff Exhibit C**)

These incidents arose from Mr. Tower's employment as a correctional officer at Shea Farm in Concord. Using his authority over a female inmate, he engaged in sexual acts during January 1, 2004 through June 30, 2005.

**On a motion by Chief Magnant, seconded by Chief Russell, that pursuant to 402.02 (a) (2) that the Council revoke the certification of Douglas Tower, the Council voted unanimously, with Deputy Attorney General Bud Fitch and Assistant Commissioner Les Dolecal recusing themselves from the vote, to revoke Douglas Tower's certification.**

**Timothy Vincent formerly of the Pelham Police Department** for violation of Pol 402.02 (a) (4).

Resigned in lieu of dismissal from Pelham Police Department (**Staff Exhibit A**)  
Certified as a part-time officer 4/19/90 (**Staff Exhibit B**)

Violation of Pol 402.02 (a)(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: (b) assault.

**Synopsis:** On January 5, 2007 Mr. Vincent plead no lo contendre (no contest) to two counts of Class B Simple Assault (Domestic Violence Related) for which he received a fine of \$500.00 with \$250.00 suspended for 12 months on the condition he have no misdemeanor or felony complaints. (**Staff Exhibit C**) According to the police reports, Mr. Vincent's son called the police on September 24, 2006 to report a domestic disturbance. Mr. Vincent was bleeding from the head when the police arrived. The officer could detect a strong odor of alcohol coming from Mr. Vincent when he was describing what happened. Mr. Vincent said that his wife was drunk and began throwing objects from the refrigerator into the driveway. She threw a beer can at him and hit him in the head.

Mr. Vincent's son told the officer he awoke to the sound of yelling and crashing and found his step-mother throwing things from the refrigerator. He also stated that his step-mother was threatening to call 911 so his father would loose his job as a police officer and further stated that his father and step-mother had been trying to reconcile their marital problems for the past month.

The officer checking on Ms. Vincent noted that she showed no signs of intoxication and no odor of alcohol was coming from her. She told the officer that she had decided to leave the house for the evening and as she was trying to get outside Mr. Vincent grabbed her and brought her back inside.

When the officer returned to Mr. Vincent he said 'All right, I know how this goes.' He placed his hands behind his back and began to turn around. The officer stated they were still trying to put together the events of the evening.

Ms. Vincent was interviewed further and told the officer that she did drink a glass of wine before going to bed and she was taking a bottle of prescription medication, that belonged to Mr. Vincent, out of the house when she was leaving. These were spilled in the driveway when Mr. Vincent grabbed her. She further stated that Mr. Vincent poured a beer down the back of her robe and grabbed a beer can out of the refrigerator and smashed it in to his forehead causing him to bleed. He told her he would tell the police she did it. The officer's observation of the beer can appeared to be consistent with Ms. Vincent's account of the situation. The can looked as though it had been crushed from the side and squeezed.

When he was being placed under arrest, Mr. Vincent wanted to know why he was being arrested since he was the injured party. After the booking process Mr. Vincent left the station and returned 15 minutes later so his son could request filing charges against his step-mother for damaging his truck with liquids from products being smashed in the driveway. At that time Mr. Vincent requested a civil standby to retrieve his cell phone and he was refused due to the late hour. He was told he could get it the next morning. After they left, the son called asking to get the cell phone and was told that although there was no specific order barring this; it was probably not a good idea. **(Staff Exhibit D)**

On December 17, 2006, Ms. Vincent reported another incident when Mr. Vincent arrived to pick up their son for visitation he pushed her into the door of the house. **(Staff Exhibit E)**

**On a motion by Judge Roberts, seconded by Chief Dodge, that the Council revoke the certification of Timothy Vincent, formerly of the Pelham Police Department, the Council voted unanimously to revoke Timothy Vincent's certification.**

### **Eligibility Hearing**

**Gerald Moors, Madbury Police Department.** In the matter of Gerald Moors, Madbury Police Department, there was a request to postpone this hearing until the August Meeting date.

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

### **Full-Time**

### **Neil J. Welch, Dover Police Department.**

After the Assistant Director outlined Officer Neil J. Welch's request for PT&E, on a motion by Chief Magnant, seconded by Sheriff Carr to accept staff recommendation and grant Officer Welch of the Dover Police Department PT&E, the Council voted unanimously to grant PT&E for full-time certification to Officer Neil J. Welch upon completion of the medical, PT test, NH

Law Package at the Full-Time Academy and First Aid/CPR, if lapsed.

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

#### **Full-Time**

##### **Eric Benson, Portsmouth Police Department**

After the Director outlined the reason for the request for extension through the 144<sup>th</sup> Academy, on a motion by Commissioner Wrenn, seconded by Judge Roberts, the Council voted unanimously, with Chief Magnant abstaining from the vote, to grant the extension through the 144<sup>th</sup> Academy to Officer Eric Benson, Portsmouth Police Department, with the stipulation that this officer be supervised by a full-time certified police officer until he completes the Academy.

##### **Frank A. Hinkle, Alexandria Police Department**

After the Director outlined the reason for the request for extension through the 144<sup>th</sup> Academy, there was a lengthy discussion surrounding the uniqueness of this situation. On a motion by Chief Dodge, seconded by Commissioner Wrenn, the Council voted unanimously to grant the extension through the 144<sup>th</sup> Academy to Chief Frank A. Hinkle, Alexandria Police Department, with the stipulation that Chief Hinkle work with a certified police officer within his agency or in a nearby agency while he is on the patrol function until he completes the Academy requirements.

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

**Command Training** - None submitted this month.

**Other Training** - None submitted this month

### ***Other Business***

#### **Fitness Testing Extensions**

After the Paralegal Cassie Erickson outlined the five following fitness testing extensions to the Council, on a motion by Commissioner Wrenn, seconded by Deputy Commissioner Annal, the Council voted to grant all five fitness testing extensions listed below through December 31, 2007.

- NH State Police – Officer will be on military leave until January 1, 2009
- Walpole Police Dept. – Officer has not been medically cleared
- NH Liquor Enforcement – Officer is still restricted to administrative duties
- Seabrook Police Dept. – Officer has not been medically cleared
- Brookline Police Dept. – Officer has not been medically cleared

Moultonborough Police Dept. – Cassie removed this case from the Agenda

### **Fitness Testing Waivers**

#### **Officer Katherine Moreira, Concord Police Department**

The Director advised that Officer Katherine Moreira, Concord Police Department, passed the alternative fitness test for the mile and ½ run and no further action was needed by the Council.

#### **Chief Philip D. O'Brien, Sr., Gilmanton Police Department**

Chief Philip D. O'Brien, Gilmanton Police Department, came before the Council and advised the Council that he had been medically cleared to perform the Schwinn Air Dyne Bicycle Test in lieu of the 1-1/2 mile run. The Chief requested the Council for an extension to become acquainted with this piece of equipment before he tested on it. On a motion by Judge Roberts seconded by Commissioner Wrenn to grant an extension on the temporary waiver through September 1, 2007, to allow Chief O'Brien to take and pass the alternative test using the Schwinn Air Dyne Bike, the Council voted unanimously to grant Chief O'Brien this extension.

### **Gift Acceptance**

The Director outlined the donation offer by *Shirts Happen* to donate several articles of clothing to PSTC with a total value of \$212.00. The items included 2 hooded sweatshirts, 1 navy wind shirt, and 4 denim shirts. On a motion by Chief Magnant seconded by Commissioner Wrenn to accept the donation of clothing items by *Shirts Happen* in the amount of \$212.00, the Council voted unanimously to accept this donation.

The Director outlined the donation offer by the **Lee Police Department** to donate two reflector strips for the 2006 Charger with a total value of \$20.00. On a motion by Chief Magnant seconded by Commissioner Wrenn to accept the donation of the reflector strips from the Lee Police Department in the amount of \$20.00, the Council voted unanimously to accept this donation.

### **Grant Acceptance**

The Director outlined a Federal grant received by the Highway Safety Department for the PSTC DRE Program Support to allow DREs to attend a training conference which the Director then requested the Council to accept this Grant for its intended use. After the Council accepts the grant it needs to go the Governor and Council for approval. The total value of the grant is \$6,850.00. On a motion by Chief Morency, seconded by Commissioner Wrenn to accept the Highway Safety Grant for DRE training, the Council voted unanimously to accept the grant in the amount of \$6,850.00 and to forward it to Governor and Council for approval.

### **Presentation on Enrollment in an Academy** by Captain Kim Roberts

Captain Roberts spoke before the Council requesting that the Council reduce the full-time academy class size to a maximum of 60 recruits. Captain Roberts highlighted the issues that arose with the larger class sizes. She indicated that staff was not able to complete survival training, that it was impossible to get through all the scenarios; firearms training required 3 relays instead of the normal 2 which resulted in each student shooting 100 – 200 less rounds because of the added relay; the third relay also cut into other training time. In Baton Training with the Redman suit 32 students out of 81 did not get the experience of this training. It took an additional 8 hours to get the recruits through the driving program with no additional opportunities to work with the course to test their skills. Personal Hygiene, break time and meal times required additional time to get the recruits through these processes, thereby reducing available time for training purposes.

Captain Roberts felt that 60 students was the optimal number. It would give the staff the opportunity to split the group in half thereby having each group actively involved in an activity. Captain Roberts also noted by limiting the number of attendees, it would offer more consistency with each Academy's numbers not fluctuating.

Council members were questioned what would happen if everyone who took the agility test passed it and there were 80 recruits who should be entered into the next Academy. The Director noted that 20 recruits would be cut and put into the following Academy. The Director stated that the question was by what method the recruits would be cut. Judge Roberts felt that it couldn't be done simply on the basis of last in first out; other factors would have to be considered in the matrix.

Commissioner Wrenn felt that PSTC is stretching its resources to the maximum and especially with the Academy that had 80+ recruits, but the dilemma that is caused when you cap the Academy at 60 recruits is when the numbers are compounded out it could result in an entire academy being filled by those recruits who were bumped from a previous academy.

Deputy Attorney General Bud Fitch felt there was always one low enrollment Academy and he felt that this pattern would absorb the backup from the other academies.

Deputy Attorney General Bud Fitch recommended asking the staff to relook at the statistics for a five year period and reworking the figures to cap it at a number that would not result in ongoing surpluses. He would also recommend that staff return with the criteria for which recruits would be bumped from an academy should the maximum number for that academy be reached.

Chief Russell felt that what he was heard Captain Roberts state was that with more than 60 recruits to train there was a loss of quality training being done and he was very concerned that training would be lost for the sake of increasing the numbers in the Academy. Commissioner Wrenn felt that more research needed to be done to insure that 60 was the absolute maximum that could be effectively trained.

Deputy Commissioner Annal asked Captain Roberts what it would take to train 80 people in terms of resources (staff, facilities, etc.). The Director indicated that that there would be facility issues, trainer issues, and staffing issues but there would also be logistic issues as well. The Director indicated that training needs are growing too fast for PSTC to keep up with the growing demand. Deputy Commissioner Annal stated that there are two ways to review the issue: one is

to limit and cap and the other is to look at expansion. Sheriff Prozzo agreed that that would be a good approach to cap and limit the numbers while laying the foundation to expand the program.

Deputy Attorney General Fitch reviewed the numbers again and he felt that the numbers were close to the 60 cap but it would require the ability to include some flexibility. Judge Roberts deferred to the Commandant's analysis with some discretion of the Director to increase that number when needed. Commissioner Wrenn agreed that some flexibility is needed to avoid large backups.

Deputy Commissioner Annal asked if the Commandant had checked whether there were the national standards for these classes. Sheriff Prozzo noted he has heard from some departments and they feel that the recruits exiting from the academy have not received enough training.

**After much consideration of the topics discussed, on a motion by Commissioner Wrenn seconded by Judge Champagne, that the Director and staff will, for the interim, limit the full-time academy class size to 60 recruits, the Council voted unanimously to require staff to only take up to a maximum of 60 recruits as the class size for the full-time academy.**

**The Council further required the Director to keep the Council apprised of the numbers enrolling in the academies and to begin researching options for a solution to the problem for the next budget. The Council additionally noted that the Director and staff will return to the Council in July with a process for handling any overages that may result from capping the academy enrollment number at 60 recruits.**

**New Part-time Academy Curriculum** by Lt. Daniel Bricker

The Director asked the Council to defer this presentation until the July meeting. On a motion by Commissioner Wrenn, seconded by Judge Roberts, to table this presentation until the July meeting, the Council unanimously voted to table this item until the July 24<sup>th</sup> Council Meeting.

**Presentation Entrance Requirements for Academies** by Nancy Otis/Loralee Ames

Nancy Otis spoke to the Council regarding standardizing the paperwork for both the full-time and part-time academies. The first issue that needs to be resolved is that in the rules and regulations it indicates that days excludes Saturdays, Sundays, and holidays while on the Form D it states calendar days. Nancy requested the Council to adjust the Rules and Regulations to have it read "calendar days" to eliminate confusion and unnecessary monitoring of which is which.

Secondly, on the bottom of the Form A, it states that within 15 days after the department has hired an individual they must mail the completed form to PSTC, which currently allows Departments to submit this form days after the first day of the Academy. Nancy Otis is requesting that this form must be submitted not later than 7 days before the applicant enters the full- or part-time Academy. Staff would like **all** paperwork submitted not later than this time.

Council members asked if this would be a formal rule change. Cassie Erickson indicated it would be.



Nancy indicated that she was aware of that and requested that it be included in the rule changes that are being submitted for 2008. Nancy noted that she has been sending letters out requesting this information and has been receiving it from most departments. She, therefore, does not believe it will be an issue. It will simply bring consistency with practice and the wording of the rule. The Council questioned why Nancy and Lorelee had picked 7 days vs. 15 days. Lorelee noted it was more for the part-time school since there were such a great number of small departments who might find the 15 day requirement a hardship.

Commissioner Wrenn indicated that if the rule says 15 days but makes it prior to entrance into the Academy then the essence of the rule would be retained.

Sheriff Prozzo noted that this change would be across the board. The Director interjected that Marine Patrol has already been granted an exception to the current process. Chief Russell asked since the Form D comes in 14 days before the Academy what would be the harm with keeping all the forms coming in by that date. Nancy Otis said it would be difficult for the small departments. It could be 14 days which would keep everything consistent but it would be a hardship on the small departments. The Director feels the rule is the rule and it should not be putting a hardship on the staff to accommodate the departments.

Council noted that this change will require a change to the Council Rules. Legal Assistant Cassandra Erickson asked the Council whether the Council wanted this done with the general rule revisions for 2008 or did the Council want her to draft something beforehand. Council requested Cassie to draft the wording for the rule change as soon as possible.

**On a motion by Deputy Attorney General Bud Fitch that the staff will draft a rule change that will incorporate a period of a 14-day deadline to the start of an academy for getting Form A's in while preserving the requirement that regardless of when they were hired it can't be any later than the fifteen days that Form A gets submitted after they are hired and also to change the definition of days to calendar days, seconded by Judge Champagne, the Council unanimously approved the motion as stated.**

The next item that Nancy Otis brought to the Council's attention was according the rules and regulations when the department submits a background investigation it should include a Form I. In all the years that Nancy has been employed with PSTC she has never seen a Form I and she felt that the Form I is redundant. PSTC has never issued this form to departments; it is not taught in the background investigation class and staff suggested that this form be removed. Council members felt that this form should be added to the packet. Nancy asked whether item D on the Form A actually covers the information on Form I. Sheriff Prozzo suggested that maybe the question on item D should be, "has Form I been completed?"

Council indicated that Form I should be implemented immediately. Commissioner Wrenn further asked the Director to audit all forms to be certain that they are complete. Assistant Director Stafford noted that the information on Form I is only part of the background information that PSTC asks the departments to complete and that departments must realize they are required to complete more than the items listed on Form I. Attorney General Bud Fitch suggested that Form A be revised to reflect the rule that covers background investigations. Chief Dodge also requested that the signature line be

under the check list on Form I. **The edited forms are to be brought before the Council at the July meeting for their approval.**

Nancy Otis also asked if the Application for Enrollment Form C and Physical Entrance; Cassie Erickson indicated she would work on this item with the other rule changes she was drafting.

### **Retired Officers Training Program for Firearms** by Ben Jean

Captain Jean outlined the progress made to implement the retired officers' bill. Since the last discussion on this matter, staff has developed a lesson plan and a powerpoint presentation which will be available to firearms instructors who will be conducting this course as soon as the Council sets a date of implementation. The requirements under the rule require the instructor who signs off on the class to send notification back to the agency or to PSTC stating the training that the individual received, the make and model of the weapon that was used and their qualifications. In order to standardize the process the staff created a form which compresses the information in standardized format. The form asks for DOB as the unique identifier to identify the individuals. Captain Jean has also gone onto the training site and built a section for firearms instructors with the information ready to upload when the Council gives its approval.

The individual departments will now have to decide if they are going to offer this service or not. The individual will then have to present to the agency/instructor a retired ID showing that he/she is a qualified retired officer; the agency would then have to put on the Use of Force Training and once the retired officer has successfully passed the training he/she would have to do the qualification course. There is a restriction on the make, model and caliber of the firearm that can be used to qualify. If the individual successfully passes the qualification course, the instructor would submit a letter or the form PSTC created to the PSTC office, and PSTC would review the information and in return send the individual a letter stating that they have met all the requirements under the Federal statute.

**On a motion by Chief Morency, seconded by Commissioner Wrenn, that beginning July 1, 2007, the Council will make available its Retired Officers training program for firearms to departments wishing to provide this training to its retired officers, the Council voted unanimously to authorize the release of this training program on July 1, 2007.**

The Council members asked Captain Ben Jean to make copies of the training program for them.

**Chief Gerald Lewis, Windham Police Department.** Chief Gerald Lewis requested to postpone his appearance before the Council to discuss the policy of Police Chiefs being required to participate in the Fitness Testing program as he needed more time to prepare his presentation. The Director noted that the Chief wants to discuss differentiating physical fitness entrance standards for hiring chiefs who are coming to the State of New Hampshire from police officers.

### **Other**

The Director took this time to thank Chief Magnant and Chief Dodge for all their assistance during the difficult time during the funeral up North. The Director also thanked the Chairman and

Vice-Chairman for all their support during this time.

The dedication of the Building went very well. The Chairman did a fine job and Cassandra Erickson did an excellent job in putting the details together. The Director asked the Chairman to recognize her in writing for the effort and dedication she put in to make this event successful.

Chairman Prozzo extended his appreciation to the staff who gave presentations at the Council Meeting. He noted that he was very impressed with the effort that the individuals put into their presentations and wanted to be sure that each of them were recognized for their hard work and interest.

**Next Meeting Date/Adjournment**

After scheduling the next Council Meeting date for 9:00 a.m., Tuesday, July 24, 2007, in the John D. Morton Conference Room, the Council unanimously voted to adjourn the meeting at 12:20 p.m., on a motion by Chief Russell, seconded by Commissioner Wrenn.