

APPROVED MINUTES

August 28, 2007

The 363rd meeting of the NH Police Standards and Training Council was called to order at 9:04 a.m. by Chairman Michael L. Prozzo, Jr., Sullivan County Sheriff's Department, in the John D. Morton conference room at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Chief Peter P. Morency, Berlin Police Department; Chief Gregory C. Dodge, Epping Police Department; Chief Timothy Russell, Henniker Police Department; 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; Major Susan Forey, designee of Colonel Booth of the NH State Police; Attorney General Kelly A. Ayotte; Vice-Chancellor Charles Annal, designee of Chancellor Dr. Richard Gustafson of the Community College System of NH and Commissioner William L. Wrenn, Jr., NH Department of Corrections.

Staff Present: Director Donald L. Vittum, Assistant Director Robert B. Stafford, Jr., Investigative Paralegal Cassandra Erickson, Keith H. Lohmann, Account-Technician Helen L. Robinson and Captain Benjamin Jean.

Chief Michael J. Magnant was excused from today's meeting due to prior commitments.

Guests Present:

Officer Maureen Van Scoten, Londonderry PD; Robert C. Browne and Capt. Michael Sullivan, Goffstown PD; Jeffrey Miller, NH Department of Corrections; Chief Neal Janvrin, Fremont PD; Officer James P. Curran, Franklin PD; George E. Tetreault, Portsmouth, NH; Officer Gerald V. Moors, Madbury PD (formerly of Rochester PD); Capt. Joseph DiGregorio, Strafford County Sheriff's Office; Capt. Paul Callaghan, Rochester PD; Lt. Gary Turgeon, Rochester PD; Chief David G. Dubois, Rochester PD; Lisa Angelina RN/CNA, NH Department of Corrections; and Lt. Ann Gould, Newfields PD.

Approval of Minutes

The minutes of the July 24, 2007 meeting were unanimously approved, following a motion by Chief Dodge that was seconded by Chief Morency.

Director's Report

The Director's written report, mailed under separate cover, was accepted as submitted to Council members.

Previous and/or Unfinished Business

None

New Business**Decertifications/Suspensions/Revocations/Surrenders/Certifications****Suspension - Maureen Van Scoten, Londonderry PD (Violation of Pol 402.02(a)(10))**

Cassandra Erickson advised Council members that Corey from Legal Deposition Services would also be recording the non-public hearing at the request of Officer Van Scoten.

Chairman Prozzo read and reviewed Council protocol with Officer Van Scoten who advised that she would be representing herself. She was asked if she wished the hearing to be heard in public or non-public session. Officer Van Scoten elected to have the hearing held in a non-public session.

Following a motion by Chief Dodge, seconded by Commissioner Wrenn, the Council voted unanimously on a roll-call vote, to enter into a non-public session at 9:08 a.m.

Following the hearing, on a motion by Commissioner Wrenn, seconded by Chief Russell, the Council voted unanimously to seal the minutes of the non-public session.

At 9:31 a.m., Commissioner Wrenn, seconded by Chief Morency, made a motion to exit the non-public session. The motion carried unanimously, on a roll-call vote.

On a motion by Commissioner Wrenn, seconded by Associate Justice Roberts, the Council voted unanimously to allow Officer Van Scoten, who was presently on light duty, to not have to satisfy the firearm requirement at this time due to a medical injury to her shoulder. She will not be allowed to carry a weapon on duty until qualifying through the Londonderry PD firearms program. Commissioner Wrenn felt there was no just cause to order a suspension or revocation of her certification at this time.

Eligibility/Decertification - Gerald Moors (formerly of Rochester PD) currently of the Madbury PD, for violation under Pol 301.05(g)(15), Pol 301.05(m), and Pol 402.02(a)(5)

Chairman Prozzo read and reviewed Council protocol with Officer Gerald Moors who advised that he would be representing himself. He was asked if he wished the hearing to be heard in public or non-public session. Officer Moors elected to have the hearing held in a non-public session.

On a motion by Chief Dodge, seconded by Commissioner Wrenn, the Council voted on a roll-call vote, to enter into a non-public session at 11:22 a.m.

Chairman Prozzo indicated this case would be continued until the next Council meeting to be held on September 25, 2007 at 9:00 a.m. reminding witnesses not to discuss the case with anyone.

Show Cause

OIC Stephen Medeiros, Piermont Police Department under RSA 177:F:27, III-d & III-f

Case was continued to the October Council meeting.

Prior Training and Experience Requests

Full-Time

Daniel A. Whitman, Fremont PD

Assistant Director Stafford briefed Council regarding Officer Daniel Whitman requesting consideration for full-time certification. Staff recommended certification upon successful completion of the medical exam and physical fitness test which he has passed, NH Law Package at the Full-time Academy, First Aid/CPR, if lapsed.

In July, the Council voted to have Officer Whitman attend the Part-Time Academy if he did not pass the fitness test or the law package. He, in fact, failed the fitness test, attended and successfully completed last fall's Part-Time Academy. Since then, Chief Janvrin has changed his status from part-time to full-time. As a result of the matrix, PSTC felt he should attend the NH Law Package at the Full-Time Academy.

Chief Janvrin spoke to Council members giving a brief history of Officer Whitman's experience with the Fremont PD indicating he was hired in 1994 as a Patrol Officer, attending the Part-Time Academy in 1995, successfully completed the 110th Full-Time Academy, then leaving the police department in July 2002 to work in the private sector. He then returned to work at the Fremont PD in May 2006 as a part-time officer. Chief Janvrin is requesting to waive the requirement for Officer Whitman to attend the Full-Time Law Package. His CPR and AED training is scheduled to be updated on Thursday

evening.

Commissioner Wrenn made a motion to grant PT&E, full-time certification, to Officer Whitman upon completion of the medical exam, PT test (previously passed), First Aid/CPR, if lapsed and to waive Officer Whitman from requirements to attend the Full-Time Academy and completion of the NH Law Package. The motion was then seconded by Attorney General Ayotte.

Commissioner Wrenn explained he felt it would not be beneficial for Officer Whitman to attend the Full-Time Academy, having completed it in the mid-nineties, or NH Law Package which he recently completed when attending the Part-Time Academy.

The Council then voted unanimously on the motion with the stipulation that upon completion of the First Aid/CPR course, documentation be provided to PSTC.

Trooper Gregory M. Hertik, Officers John E. Noel, Jr. and Shannon A. Jackson

After Assistant Director Stafford outlined the requests for prior training and experience, the Council voted unanimously, on a motion by Chief Dodge, seconded by Chief Russell to grant certification on prior training and experience in accordance with staff recommendation upon successful completion of the medical exam, Physical Fitness Test, NH Law Package at the Full-Time Academy, First Aid/CPR, if lapsed to **Trooper Gregory M. Hertik, NH State Police, Officers John E. Noel, Jr., Milford PD, and Shannon A. Jackson, Manchester PD.**

Officer Christopher A. Weeks, Goffstown PD

Assistant Director Stafford outlined and recommended prior training and experience certification upon successful completion of the medical exam, Physical Fitness Test, NH Law Package at the Full-time Academy and First Aid/CPR, if lapsed. Goffstown PD has requested that Capt. Kerry Steckowych teach the NH Law Package at their police department. Due to late paperwork, Officer Weeks did not participate in the August physical fitness test.

To open discussion, Captain Michael Sullivan, Goffstown PD, inquired what the Council's ruling was with regard to allowing Capt. Steckowych to previously teach at Goffstown PD.

Chairman Prozzo indicated he was allowed to run a one-time pilot program.

Commissioner Wrenn then stated the Council agreed to allow Capt. Steckowych to instruct the NH Law Package based on his teaching this subject at the Police Academy. In response to Commissioner Wrenn, the Director affirmed that the proposed instructor was a very good prosecutor and instructor in Laws of Arrest and those areas, while other instructors teach different modules of the NH Law Package and wished the Council to be aware of that fact.

Commissioner Wrenn said the Council needs to be cautious and expressed in the motion the Council has allowed this for specific reasons only. Attorney General Ayotte agreed and felt

Capt. Steckowych is very, very qualified, but the Council needs to be consistent and offer unified training as there could be similar requests in the future by other departments. If a patchwork of law training is allowed, it may remove the control that creates good consistency of having a central message on how police officers are trained. An instructor should be cleared by the Council and particularly have administered the NH Law Package at the academy.

Chief Russell voiced his concern regarding the lack of consistency referring to a recent ruling regarding Firearms Instructor Recertification and the Council's decision, for reasons of documentation, for the course to be held at PSTC and not other facilities.

In response to a question by Vice-Chancellor Annal if there was any follow-up to indicate if the training was effective, the Director stated Assistant Director Stafford observed the classes indicating Capt. Steckowych did an outstanding job covering the lesson plans and feels very comfortable with his teaching.

The Director also mentioned, with regard to consistency, a previous ruling was made by the Council, requiring departments to submit the Form D fourteen (14) days prior to the PT test, which did not happen. Therefore, two departments have been denied participating in the PT test because these forms were not received at PSTC within the required time-frame and their officers were not allowed to attend the 144th Police Academy. The Director stated Form D's are reviewed by staff for completeness before participating in the PT test. If the PT test is not passed, the NH Law Package cannot be taken.

Commissioner Wrenn felt if the Council was going to allow Capt. Steckowych to continue teaching the NH Law Package locally, he felt if the Law Package was completed, certification would not be granted until after the PT test, rather than stating the NH Law Package cannot be completed until after the PT test in December.

Capt. Sullivan spoke to Council members clarifying that Officer Weeks was not hired until August 6, 2007. As far as waiting for him to complete the PT test, they anticipated he would have completed his FTO and could fill one of the five vacancies in their department. Therefore, is asking the Council for consideration in allowing Officer Weeks to take the PT test at this time.

Chief Morency stated this could encourage a department to wait to within the 14 days to hire an officer which could result in carrying over the allotted slots in the Academy.

In answer to a question by Attorney General Ayotte regarding the 14 day policy, the Director indicated, in the past, officers were showing up the day of the PT test with the paperwork which resulted in blood pressure issues, physicians incorrectly signing forms, and a lot of other situations. This is why staff has required the Form "D" be sent to PSTC 14 days prior to testing for review.

After much discussion, Commissioner Wrenn made a motion to again grant Capt. Steckowych the authority and ability to teach the NH Law Package at the Goffstown PD and to Officer Christopher A. Weeks. The motion received a second by Sheriff Carr.

Sheriff Prozzo suggested language to be included in the motion to indicate that Capt. Steckowych, also an attorney, has also taught on staff at PSTC.

Commissioner Wrenn, adding to the motion, also states that Capt. Steckowych does teach subjects in the NH Law Package at the Academy, is an attorney and member of the NH Bar Association, and that Capt. Steckowych, by authority of the Council, was allowed to teach the NH Law Package to another Goffstown police officer in the recent past. Further, he would be required to teach the NH Law Package in accordance with the requirements, along with the learning goals and objectives of those courses of the Academy.

Attorney General Ayotte suggested Capt. Steckowych not be given universal authority, but return to the Council on a case-by-case basis.

Commissioner Wrenn agreed with Attorney General Ayotte indicating part of his motion would include Council decision on a case-by-case basis and continue to monitor his instruction.

Associate Justice Roberts expressed his concern that a one-time exception is being used to justify a second and so on. This may open up an avenue for departments and other training components. In answer to a question by Chief Morency regarding staffing, the Director indicated he doesn't have sufficient staff to monitor schools and curriculum taught around the state.

Chairman Prozzo read a letter dated October 24, 2006, sent to Goffstown PD regarding Council's decision at the October 2006 meeting which indicated **"the Goffstown PD was permitted to run a one-time pilot NH Law Package program on conditions that whoever is instructing the course is certified in the subject matter that he is instructing and that the instructor has recently taught at the Academy."**

After further discussion, the motion failed on a vote of 6-5 opposing Capt. Steckowych to continue to teach the NH Law Package at the Goffstown PD.

On a motion by Associate Justice Champagne, seconded by Associate Justice Roberts, the Council voted unanimously to accept staff recommendation to grant PT&E to Christopher A. Weeks, Goffstown PD upon successful completion of the medical exam, PT test, NH Law Package at the Full-time Academy, First Aid/PR, if lapsed.

Part-Time**Officer James P. Curran, Franklin Police Department**

Capt. Benjamin Jean outlined the request for PT&E for PT Officer James P. Curran requesting to be reinstated for part-time certification. He indicated Officer Curran retired from NH State Police in March 2002, continuing part-time with NH Marine Patrol until July 8, 2005. Certification went from full-time to part-time status. He was hired by Franklin PD on July 29, 2007. Being over the two-year limit, staff recommendation based on the matrix would be successful completion of the NH Law Package at the Part-Time Academy.

Officer Curran appeared before the Council indicating the paperwork from the Franklin Chief of Police was initiated prior to the two years. The City Manager had to approve the position and was advised by the City Attorney he was not empowered to approve the part-time position, therefore, was required to go before the Franklin City Council which did not meet for another month. In the meantime, the Chief completed the paperwork and he was sworn in as a part-time police officer. Officer Curran was hired back under the Fire Department as a Property Maintenance Inspector performing code enforcement duties. When requesting a summons to be issued under City ordinances, Officer Curran would have to call for a patrol officer to have him issue a summons. He feels he knows the laws and is present in the court on a weekly basis.

Commissioner Wrenn stated that being a sworn officer performing Code Enforcement duties he would be required to complete the PT test, Annual Training requirements, and firearms, etc. which Officer Curran responded to in the affirmative.

Following a motion by Associate Justice Roberts, seconded by Attorney General Ayotte to allow PT& E certification to Officer Curran and to waive the NH Law Package at the Part-Time Academy given the fact that this was initiated before and delayed past the two-year time period due to bureaucratic issues.

Chairman Prozzo stated the motion has made it clear there was a glitch in the time period, but reminded Council members there are some issues but the matrix is used for a reason which needs to be adhered to. The Council then voted unanimously on the motion by Associate Justice Roberts.

Officer Edward A. Conley, Bartlett PD

Capt. Benjamin Jean outlined the request for PT&E, stating Officer Conley worked full-time for the Warwick, Rhode Island PD, retiring in 1999. His final matrix score was 210 out of 430, therefore, staff recommendation is certification upon successful completion of the Part-Time Academy.

On a motion by Associate Justice Champagne, seconded by Chief Morency, the Council voted unanimously to grant PT&E in accordance with staff recommendation.

Corrections Officer Daniel A. Bean, NH Department of Corrections

Assistant Director Stafford outlined the requests of Corrections Officer Daniel A. Bean for PT&E who attended the Corrections Academy in 1994, now becoming a Probation/Parole Officer. Captain Jeffrey Noyes (Ret.) recommends that CO Bean should participate in various classes in the upcoming 86th Corrections Academy which were not available in the 46th Academy which he attended. Those classes include Terrorism in DOC, Prison Pre-Release, Cross Gender Supervision, Introduction to Defensive Tactics, Defensive Tactics Training & Practical Test, Firearms Safety/Firearms Qualification, Inmate Transportation, Inter-Personal Communication, Alco Sensor, Drug Specimen Collection, OC, Physical Fitness Requirement per RSA 188 F-27, and the NH Law Package.

Following a motion by Associate Justice Champagne, seconded by Chief Dodge, the Council voted unanimously to grant PT&E to CO Daniel A. Bean in accordance with staff recommendation. Commissioner Wrenn abstained from the vote.

Requests for Extensions**Full-Time**

No requests submitted

Part-Time

After Keith Lohmann outlined the requests for extensions, on a motion by Commissioner Wrenn, seconded by Associate Justice Champagne, the Council voted unanimously to grant extensions as requested to Erik Godfrey, Mason PD; NH Marine Patrol Officers Iain A. Bean, James F. Callahan, Jr., Kyle A. Horner, Mark J. McSweeney, Clayton A. Jarvis, Michelle L. Montville, Christopher R. Parsons, William G. Pica, Justin R. Pryor, Thomas J. Routhier, Sean M. Roy, and Kyle M. Smith through the 251st Part-Time Academy.

Also extensions were granted through the 252nd Part-Time Academy to NH Marine Patrol Officers Kyle T. DiFruscio, Robert J. Johnson, Eric A. Maher, Rondal A. Noyes, and Eric B. Tracy.

Department of CorrectionsCorrections Officer Victoria F. Kirega

Keith Lohmann outlined the request for extension through the 86th Corrections Academy indicating Corrections Officer Kirega attended the 85th Corrections Academy, was unable to complete weapons qualification and ground defense due to a hand injury.

Corrections Officer Michael P. Cotton

Keith Lohmann outlined the request for extension indicating DOC requested an extension for an unspecified period of time due to military deployment to Iraq for Corrections Officer Cotton. PSTC recommends the extension until the end of the first scheduled academy following his return from military duty (August 2008).

On a motion by Chief Russell, seconded by Associate Justice Champagne, the Council voted unanimously, with Commissioner Wrenn abstaining from the vote, to grant the extensions for Correction Officers Kirega and Cotton of the Department of Corrections as recommended.

Probation/Parole

No requests submitted

Specialized Training GrantsCommand Training Programs

Director Vittum explained an additional grant was submitted from the Department of Corrections for Corrections Officer Sgt. Valerie Brooks, assigned to the Corrections Academy at PSTC, to attend the The Cooper Institute in Dallas, Texas. Funding is being requested at 100% Council Share.

Following a motion by Associate Justice Champagne, seconded by Chief Morency, the Council voted unanimously, with Commissioner Wrenn abstaining from the vote, to approve all Specialized Training Grant requests as presented on the Agenda in the amount of \$1,000 each to for Cpl. Michael S. McNeil, Jr., Farmington PD; Sgt. Matthew French, Henniker PD; Officer Marcello, Alstead PD; Capt. Christopher M. Nervik and Capt. Stephen Toom, Milford PD; Sgt. Kristian J. Kelly, Gilford PD; Sgt. Denise Roy, Merrimack PD and Sgt. Mike Lemoi, Strafford County Sheriff's Office to attend the Roger Williams University in Rhode Island.

To send Sgt. Timothy Jones, Sgt. Kevin Cavallaro and Sgt. Ryan Kearny of the Londonderry PD to the Massachusetts Police Leadership Institute, Lowell, Massachusetts for a total of \$3,000 (\$1,000 each).

To Department of Corrections, granting 100% funding, to send Sgt. Valerie Brooks to the Law Enforcement/Public Safety Fitness Specialist course at The Cooper Institute in Dallas, Texas, November 27-30, 2007.

Other Training

Council also approved a grant from Portsmouth PD to send Capt. David Ferland to the Managing Police Discipline course in Myrtle Beach, SC in the amount of \$911.33.

Other Business

Keith Lohmann explained that the Department of Corrections, Bureau of Training and Staff Development has submitted a request to remove the Prisons/Pre-Release, Community Corrections/Field Services and NHDOC Organizational Structure courses from the Corrections Academy and offer them during their one-day orientation which they conduct. The Director stated this was reviewed with Capt. Jeffrey Noyes who has been assigned as Commandant for the Corrections Academy and recommends the change and more hands-on training.

Associate Justice Champagne then made a motion, seconded by Sheriff Carr to accept the removal of the above-mentioned courses from PSTC's Corrections Academy. The motion carried unanimously with Commissioner Wrenn abstaining from the vote.

NH Department of Corrections – Medical Issues

Lisa Angelini, RN/CNA, Employee Health Coordinator for the Department of Corrections spoke to Council members regarding medical standards relating to color vision testing. One of their Corrections Officer who went through the examination process did not pass the Ishihara Test (screening test). He is the first Corrections Officer since her tenure with the department that has elected to do the resource testing of the 100-Hue Farnsworth-Munsell eye exam(definitive test). Previous candidates elected not to participate in this test. The 100-Hue Farnsworth-Munsell examination is not conducted in the State of New Hampshire. After inquiry, found one place in Boston, Massachusetts that offered it and this test only encompassed 50-Hues. His color discrimination was focused on areas between maroon and brown with no problem with primary colors.

The guidelines state “where possible” Ishihara should be used and the department has been using this test. Ms. Angelini questioned, when candidates attend the Police Academy, how many municipalities offer an Ishihara examination for their candidates and if not, what test was conducted to determine the color discrimination abilities. From a clinical perspective not being able to tell the difference between maroon and brown is a great significance. It has been very problematic over the years for the department and is not uncommon particularly in men to have this difficulty. She found the wording “where possible” in the guidelines unclear.

In answer to a question by Attorney General Ayotte, Ms. Angelini explained the Ishihara Test involved little colored plates about ½ inch in diameter, pictures with different shades of certain colors and they have to be identified and given a number. This is more of a shade

understanding. Illiterates are given pictures. She feels all recruits should be held to the same standard with regards to vision testing.

Chief Russell felt Ms. Angelini should report back to the Council regarding her recommendations and changes to the rule/policy she believes should be implemented.

The Chairman noted the Council will take the situation under consideration and invite Ms. Angelini to return before the Council at their next meeting regarding the specific medical conditions.

Commissioner Wrenn indicated it seems quite definitive with the rule indicating performance of the Ishihara Test first, and the candidate's color vision is no worse than mild color deficiency. This would require some change in the policy. The Council has to keep in mind the reason for the policy and the essential tasks. In response to Commissioner Wrenn's question, Ms. Angelini stated the cost of the 100-Hue Test is approximately \$600 out-of-pocket and this Corrections Officer has taken the time and money to complete the process. If necessary, she will come before the Council to present further documentation.

Associate Justice Roberts made reference to the AOHR test in the rules which is a substitute for the Ishihara. Ms. Angelini stated she didn't know what the test involved. If that test was provided, perhaps the candidate would qualify. The impression Ms. Angelini received was the 50-Hue test was the customary practice in the medical field. Associate Justice Roberts felt that the distinction between the colors was a mild color defect. If she could obtain documentation that the 50-Hue is essentially the functional equivalent or even the substitute for the 100-Hue test and he has passed that test, he believes we would be within the rule.

At this time, Chief Russell is considering to make this a motion to continue until next months meeting in order for Ms. Angelini to provide documentation from the specialist and make a recommendation to the Council. It did bring to question the language used in the rule and how many recruits may have been accepted through the Police Academy who did not have the Ishihara Test or a similar type of test.

The Director stated if the rule needs to be changed, further documentation should be presented to the Council. Associate Justice Roberts inquired if the police recruits are accepted and if there is a certification that they pass a color vision test and no specification of the type of test taken.

Chief Morency asked if the Farnsworth-Munsell test is like a polygraph and is rated high-low, medium risk. Ms. Angelini said the test usually consists of a summary/explanation and is a test case at the Department of Corrections.

Chief Russell made a motion to continue this for a month to give Ms. Angelini time to review the recommendation. The Council would obtain a recommendation from her at the

September meeting. The motion was then seconded by Chief Morency, and the Council voted unanimously on the motion, with Commissioner Wrenn abstaining from the vote.

Ms. Angelini, after the motion, stated the Department of Corrections recently interviewed an applicant and disclosure of medications taken were dietary supplements that were suppose to be performance enhancing substances which affect an individual's aerobic capacity. These are not mentioned in the Council's rules. She asked if this would be an issue for an applicant to take performance enhancements and should there be a stipulation as to the PT test and their ability to take the PT test. Chairman Prozzo suggested she discuss this with Director Vittum and his staff who would make a recommendation.

Adjournment

After scheduling the next meeting of the Council for ***September 25, 2007 at 9:00 a.m.***, on a motion by Chief Dodge, seconded by Commissioner Wrenn, the Council voted unanimously to adjourn the meeting at 1:29 p.m.

Chairman Michael L. Prozzo, Jr.