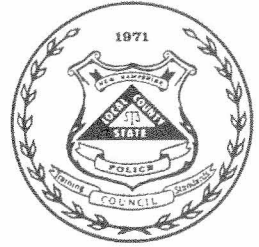




Sheriff Michael L. Prozzo, Jr.
Chairman

State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
ARTHUR D. KEHAS
LAW ENFORCEMENT TRAINING FACILITY & CAMPUS
17 Institute Drive — Concord, N.H. 03301-7413
603-271-2133 FAX 603-271-1785
TDD Access: Relay NH 1-800-735-2964



Donald L. Vittum
Director

Minutes

May 27, 2008

The 372nd meeting of the New Hampshire Police Standards and Training Council was called to order at 9:12 a.m. by Chairman Michael L. Prozzo Jr., Sheriff of Sullivan County, in the John D. Morton conference room at the Arthur D. Kehas Law Enforcement Training Facility and Campus in Concord, New Hampshire.

Members Present: Associate Justice Stephen H. Roberts, Dover District Court; Commissioner William L. Wrenn, Jr., New Hampshire Department of Corrections; Chief Timothy Russell, Henniker Police Department; Chief Peter Morency, Berlin Police Department; and, Chief Michael J. Magnant, Portsmouth Police Department.

Members Absent: Justice Norman Champagne, Colonel Frederick Booth, Chief Gregory Dodge, Sheriff Scott Carr, Attorney General Kelly Ayotte, and Chancellor Richard Gustafson.

Staff Present: Director Donald L. Vittum, Assistant Director Robert B. Stafford, Jr., Mr. Keith H. Lohmann, Investigative Paralegal Anne Paquin, Chief Timothy Merrill, and Council Secretary Kathryn Day.

Guests Present: Chief Warren Davis, Warren Police Department; Mr. Walter Becht, Auburn Police Department and Hillsborough County Sheriff's Department.

Call to Order

Chairman Prozzo called the meeting to order at 9:12 a.m.

Approval of Minutes

Chief Russell moved to accept the Minutes of April 15, 2008; the motion was seconded by Commissioner Wrenn and unanimously approved by a voice vote of the Council.

Director's Report

The Director's written report, mailed under separate cover, was accepted as submitted. There were no questions or comments and no additional remarks by the Director.

Previous/Unfinished Business

Survey Response and Discussion

Chairman Prozzo asked Director Vittum to summarize the results of a survey of police chiefs and other law enforcement executives who were asked to respond to a single question: *Should the Police Standards and Training Council institute an entrance fitness testing standard for part-time police officers attending the Part-Time Officer Academy equivalent to that currently used for full-time police officers?* A stamped, addressed envelope was provided for convenience and so individuals could respond anonymously.

Responses were submitted over a four-week period from mid-April through May 17, 2008, and compiled on CD by Captain Jean for the Council to review. Captain Jean provided a summary that showed 231 local, County, and State law enforcement agencies returned 170 surveys, for a response rate of 74% or three-fourths of all the agencies surveyed. Many of the local chiefs used the comment section to state their concerns or their compelling reasons for answering yes. Of the 170 responses received, 84% or 143 police chiefs and others supported an entrance fitness testing standard for part-time officers; there were 27 police chiefs (16%) who opposed this requirement.

Some of the comments from the latter group were:

- Part-time officers are generally older and won't be as physically fit.
- This requirement should be instituted at the discretion of the hiring authority.
- It is already hard enough to find part-time officers.
- This requirement would place a burden on small departments.
- Fitness standards should be relaxed for part-time officers.

Director Vittum stated that the physical training for recruits in the Part-Time Officer Academy is currently limited to activities completed within the 200 hours of instruction. These activities include some scenario training, firearms training, defensive tactics, and driving; beyond that, these individuals do not participate in daily physical agility training or fitness testing like the Full-Time Academy recruits do. If an entrance fitness test were required for the Part-Time Academy, these exams would take place on a Saturday and would not impact the academic schedule and other priorities. Fitness training would need to be scheduled outside of the 200 hours of instruction.

The reasons for entrance fitness testing for the Full-Time Academy are two-fold: to determine that the recruit's fitness level will allow them to complete the required physical training and to ensure newly certified full-time police officers are physically prepared to meet the challenges they will encounter in the field. However, all officers, both part-time and full-time, are required to pass an ongoing fitness test every three years to retain their certification. Chief Morency asserted that the majority of local chiefs feel minimum fitness standards for all certified police officers are important for their safety and the safety of their communities.

Commissioner Wrenn stated that, based on the results of the survey and overwhelming support from the majority of New Hampshire police chiefs, he would be willing to acquiesce, even though he felt requiring an entrance fitness test for admission to the Part-Time Academy would place an undue burden on smaller agencies. Both Commissioner Wrenn and Chief Magnant suggested that it may be a decision the chiefs may come to regret, but if the majority are willing to support it, they would reluctantly approve the change.

Since part-time certified officers are expected to reach the required fitness level in the third year following their Academy, they are already responsible for implementing their own fitness program on their own time. Judge Roberts suggested that it may be more reasonable and practicable to implement fitness testing as a prerequisite for graduation from, rather than entrance to, the Part-Time Academy, keeping the onus for completing physical training upon the officers and their departments. Part-time certification would not be granted until the recruit successfully passed an exit fitness test. This would achieve the goal of fitness for all certified police officers. Chairman Prozzo and Commissioner Wrenn supported this option. Chief Morency emphasized that raising the bar without being given the opportunity to do physical training with the part-time recruits and allowing them to take the fitness test at the end of the Academy could possibly negate the 200 hours of training already provided; the focus should be on ensuring that candidates for part-time certification are physically fit to enter law enforcement, based on the increase in assaults on police officers, for one.

The Director cautioned against “changing the game” without first working the issues out with the chiefs. In the interest of fairness, the Director and Chief Russell felt that another survey would need to be done to raise the alternative to an entrance fitness test. Judge Roberts suggested this idea could be raised at meetings with the chiefs to get their response, but the Director felt that these meetings do not draw the majority of the police chiefs in the state.

Chief Russell inquired whether the facilities at Police Standards and Training could be made available before or after classes and on weekends, so that part-time recruits could do the physical training they need to pass an exit fitness exam. The Director stated that he would be willing to make the facility available, but this would not be equal to the organized structure of the full-time program, because the Full-Time Academy staff would not be present to support the training. Additional staff and/or labor hours would be required in order to provide that support and oversight.

Chief Magnant moved that the Director bring these issues to the Academy staff, with the Council’s recommendation for a minimum fitness level for the Part-Time Officer Academy, either at the beginning or the end of the Session, and for the Director to return to the Council with recommendations for how to institute the new requirements. Based on the current survey, the Director supported an entrance fitness test administered on the Saturday prior to the start of the Academy, the same day they now receive orientation. If they fail for reasons other than a medical issue (i.e. blood pressure), they would be denied admission.

Chief Magnant rephrased his motion this way: That the Director institute the fitness testing program for the Part-Time Officer Academy to be administered on the Saturday preceding the start date of the Session, beginning in January 2009, and then report back to the Council in February about the initial results of the change. Chief Russell seconded the motion.

Chief Morency felt that this was a satisfactory beginning; if more time is needed to modify the process, it could be managed. Chief Russell remarked that the results of the survey gave a clear indication from the majority of 231 agencies (almost 62%); those that failed to respond have in essence given tacit approval of the change proposed in the survey.

Director Vittum said that some lead time would be needed to address specific issues, such as blood pressure problems, the development of an assessment matrix, and to effectively communicate the Council's decision to police chiefs. The new requirements could be instituted in January 2009. Judge Roberts suggesting sharing the survey responses, along with Captain Jean's synopsis of the survey results, with the chiefs, as well, and Director Vittum agreed to do this.

Again, Commissioner Wrenn stated his willingness to defer to the majority of those who replied to the survey, albeit with significant reservations. Chairman Prozzo felt that the best way to gauge the true feelings of the police chiefs would be to go ahead and implement the change in January 2009, with the understanding that a subsequent evaluation would take place that would provide for further comment and possible reconsideration. Without further discussion, a unanimous voice vote of the Council confirmed Chief Magnant's amended motion.

New Business

NONPUBLIC SESSION: Walter H. Becht, Auburn Police Department and Hillsborough County Sheriff's Department, pursuant to Pol 402.02 (a) (4).

Chairman Prozzo reviewed the Council protocol and confirmed with Mr. Becht that he was fully informed about his rights and the hearing procedures outlined in a letter of notice he received from the Director. Mr. Becht stated that his attorney could not be present, but he was prepared to proceed with the hearing as scheduled. Mr. Becht stated his preference for the matter to be heard in a non-public session, with the understanding that the Council would return to public session to render their decision.

Upon a motion by Chief Morency to enter into non-public session for purposes of discussing a personnel matter, with a second by Commissioner Wrenn and a unanimous roll call vote of the Council, the non-public session commenced at 9:45 a.m.

At the conclusion of the hearing, Chief Russell moved to seal the minutes of the non-public session. Chief Morency seconded the motion and the roll call vote of the Council was unanimous in favor. Chief Morency seconded Chief Russell's motion to exit the non-public session and, again, a roll call vote of the Council was affirmative without exception. The non-public session concluded at 10:02 a.m.

Upon return to public session, Commissioner Wrenn stated the following concerns: With regard to a conviction for DWI, the Council has been consistent in recommending suspension and so the question at hand was how long the suspension should be imposed. However, giving weight in the decision to Mr. Becht's seasonal employer who has requested the suspension be delayed to accommodate them by allowing Mr. Becht to continue working through at least the summer months would not be appropriate or effectively punitive and would set an undesirable precedent. Therefore, the Council's prerogative should only concern the length of the suspension to be imposed and that it should take effect immediately.

Mr. Becht respectfully acknowledged Commissioner Wrenn's remarks and he made these additional comments: First, five months have passed since the conviction with no action being taken. Secondly, although Mr. Becht is also seasonally employed as a Hillsborough Deputy Sheriff, if the suspension period were delayed until December the Hillsborough County Sheriff's Department would have adequate staff during his suspension period. Mr. Becht's concern was for his other employer, Manchester Water Works, who would endure a significant hardship because there would be no time to hire and sufficiently train his replacement.

Chief Russell noted that although the typical suspension period is 90 days, it was his opinion that the egregious circumstances surrounding Mr. Becht's arrest warranted a more severe penalty, and he recommended a suspension period of not less than six months. Further, Chief Russell moved that the Council suspend Mr. Becht's certification for a period of six months, effective immediately. Commissioner Wrenn seconded this motion and, hearing no discussion, the Chairman called for a voice vote of the Council. The Council unanimously affirmed the motion.

CONSENT CALENDAR

The following requests for certification were considered based on **Prior Training and Experience (PT&E)**:

Full-Time

Vincent DiMauro, Hanover Police Department

(DOH 03/12/08 **Not part-time certified**) Requesting consideration for full-time certification based upon prior training and experience. Staff recommends granting certification upon successful completion of the NH Law Package of the Full-Time Academy, medical exam, entrance fitness test, and First Aid/CPR certification, if lapsed.

Nathan Goard, Exeter Police Department

(DOH 04/28/08 **Not part-time certified**) Requesting consideration for full-time certification based upon prior training and experience. Staff recommends granting certification upon successful completion of the NH Law Package of the Full-Time Academy, medical exam, entrance fitness test, and First Aid/CPR certification, if lapsed.

William C. Melanson, Plymouth State University Police Dept. (DOH 02/11/08 **Not part-time certified**) Requesting consideration for full-time certification based upon prior training and experience. Staff recommends denying the request and requiring Mr. Melanson to complete the 147th Full-Time Police Officer Academy.

CONSENT CALENDAR Prior Training and Experience (PT&E) continued

Part-Time

Meridith M. Atwood, Carroll Police Department

(DOH 04/14/08) Requesting consideration for part-time certification based upon prior training and experience. Staff recommends granting certification upon successful completion of the Law Package of the Part-Time Officer Academy and the following courses: Child Abuse, Community Relations/Ethics, Elder Abuse, National Incident Management System, and Report Writing. In addition, Officer Atwood must complete the Firearms Course and agree to meet requirements for ongoing three-year fitness testing.

The following **Requests for Extension** were submitted for consideration:

Full-Time Police Officer

Staff recommends that extensions for these full-time officers be granted until fitness testing for the 147th Academy and, if testing is successful, through the end of the 147th Academy.

Officer James E. Ammann, Winchester Police Department

Officer Anthony R. K. Cinfo, Lee Police Department

Officer Michael H. Ho-Sing-Loy, Bethlehem Police Department

Officer Michael S. McCarthy, Somersworth Police Department

Officer William C. Melanson, Plymouth State University Police Department

Officer Frederick A. Nicosia, Brookline Police Department

Officer Fawn M. Woodman, Nottingham Police Department

The Council considered one request for **Other Training**:

Berlin Police Department's request to send Sergeant Donald Gendron and Officer Nathan Roy to the Less Lethal Munitions Instructor Certification Course offered by Combined Tactical Systems at the Farmington Police Department in Unionville, Connecticut, from June 3 to June 8, 2008 was recommended by staff for approval. **Amount for two officers: \$853.33**

Chief Magnant moved that the Council approve the staff recommendations on the items on the Consent Calendar. The motion, seconded by Judge Roberts, carried without opposition on a voice vote.

Ongoing 3-Year Fitness Testing – Mr. Keith Lohmann

Mr. Lohmann presented one request for a fitness testing extension. **C. O. Vincent Ruel, North Country Correctional Facility**, requests a medical extension due to a work-related injury. Staff recommends granting the extension.

Chief Morency moved that the Council approve the recommendation of Mr. Lohmann to grant the requested fitness testing extension. After a second by Chief Russell, the voice vote by Council was unanimous in favor.

Requests to Issue Show Cause Orders

The Council considered issuing Show Cause Orders to the following officers who have not met the requirement to pass three-year ongoing fitness testing, pursuant to RSA 188-F:27, III-d and III-f.

Officer Jared Peters, Bethlehem Police Department

Corporal Scott Lewis, Boscawen Police Department

Officer Joseph Marquay, Jr., Charlestown Police Department

Corrections Officer Michael Eaton, New Hampshire State Prison

Corrections Officer Dwayne Gogan, New Hampshire State Prison

Corrections Officer Daniel LeBlanc, NH State Prison

Corporal Cindy Moreau, North Country Correctional Facility

Corporal Eric Stone, NH State Prison for Women

Corporal Dwane Sweatt, North Country Correctional Facility

Corrections Officer Timothy Whitaker, North Country Correctional Facility

Officer Daniel Jackman, Hampstead Police Department

Officer John Silva, Hampton Police Department

Officer Jonathan Evans, Hill Police Department

Officer David Kratz, Hill Police Department

Officer Robert Elliott, Hinsdale Police Department

Officer Samantha Wilkin, Holderness Police Department

Officer Matthew Moyer, Laconia Police Department

Officer Carey Girouard, Woodstock Police Department

Chief Russell moved that the Council issue a Show Cause Order to each of the officers listed. Chief Morency seconded the motion. Hearing no discussion, the Chairman confirmed that these officers would be compelled to appear at the next scheduled Council meeting on June 24, 2008, unless they pass their fitness test prior to that date. Chief Russell felt that all the officers listed should appear before the Council, if only to offer an explanation for their failure to meet the requirement on time and for the absence of any contact with the agency upon receiving a letter of notice. The Chairman called for a voice vote on the pending motion and the motion carried without opposition.

Other New Business

1,300 Hours Rule Violation

Mr. Keith Lohmann presented the matter of Ronald Greenleaf of the Charlestown Police Department. Mr. Greenleaf has not responded to a letter asking him to appear before the Council on May 27 and he was not present at the meeting. Mr. Greenleaf was contacted and informed that he was in violation of the 1,300-Hours Rule and responded that he did not consider time he spent as a prosecutor as part of the 1,300 hours. In September 2006, Mr. Greenleaf asked the Council for a declaratory ruling on his assertion that "time spent in court does not count toward the 1,300 hours," and he referenced the February 2007 issue of The Bulletin Board. This request was denied by the Council.

Today the matter concerns Mr. Greenleaf working 129 hours over and above the 1,300 hours he worked for the Charlestown Police Department.

Commissioner Wrenn moved that the Council notice Mr. Greenleaf by letter that he is in violation of the 1,300-Hour Rule and that 129 hours will be deducted from the 1,300 hours allowed in the current year and that he will be restricted to those hours. Mr. Lohmann stated that this communication has already been received by Mr. Greenleaf and he responded that he intended to appeal the action against him, because the Council has not given the staff the authority to bring such action.

Commissioner Wrenn amended his motion thusly: That the Council deny Mr. Greenleaf's appeal and affirm the action taken by staff in this matter. Chief Russell seconded the amended motion and the Chairman asked if the Council had questions or comments on the motion. Judge Roberts stated for the record that the Council meeting this day is the forum for Mr. Greenleaf to be heard and to explain why the 129 hours should not be deducted from his 2008 hours, and he has chosen not to appear. The Council voiced their unanimous approval of the pending motion.

Annual Compliance Issue

Chief Warren Davis of the Warren Police Department appeared before the Council for a hearing on his failure to comply with annual training requirements for Firearms and four-hour Use-of-Force Training. Chairman Prozzo informed Chief Davis of his rights and the hearing procedures, and he acknowledged his understanding of the rules he received in a prior letter from Director Vittum. Chief Davis waived the right to have a court stenographer present and confirmed that he desired to proceed without having legal counsel present, as well. Chief Davis stated his preference to hold the hearing in public session, with the understanding that personnel matters would be discussed and become part of the public record.

Chairman Prozzo called on Mr. Keith Lohmann to be sworn in and present the facts of the case. Mr. Lohmann summarized the matter as follows:

Chief Warren Davis of the Warren Police Department has been noticed for his failure to comply with annual training requirements for firearms and the four-hour training for Use of Force.

Warren Davis is the part-time elected Chief of Police in Warren, New Hampshire. This is a one-man department.

Chief Davis failed to provide documentation of his completion of four hours of Use-of-Force training and firearms training for the calendar year 2007. After several requests, including a phone call from Major Stafford, Chief Davis sent a letter indicating that he had not completed either of these requirements due to the illness of his wife and his resulting inability to complete the training. He stated in his letter that he would do so as soon as he was able.

The Rules require that anyone that carries a firearm must qualify annually. So, if he agreed not to carry a firearm, that provision could be waived; however, Chief Davis has made no such request. There is no waiver provision in the Rules for the four-hour Use-of-Force class. After further communication, Chief Davis submitted a Form B which he signed himself, placing himself on a leave of absence. It is up to the Council to decide if they want to accept this action as sufficient or, pursuant to Pol 402.02 (a) (10), to suspend his certification until such time as he meets the requirements for annual compliance. It was Mr. Lohmann's opinion that an action under Pol 402.02 (a) (8) is possible under the circumstances, because Chief Davis is the only officer and he has filed Form B on his own behalf.

Chairman Prozzo asked if the Council had any questions for Mr. Lohmann. Hearing none, Chief Davis was given the opportunity to question Mr. Lohmann.

Chief Davis asked Mr. Lohmann to confirm that he has received copies of his current qualification for the four-hour Use of Force that was submitted May 27, 2008, when Chief Davis arrived early for the Council meeting. Mr. Lohmann responded no, and Chief Davis produced copies for the Council.

Director Vittum asked Chief Davis when the training had taken place and Chief Davis confirmed that the date was Saturday, May 24, 2008. Director Vittum pointed out that after January 30, 2008, the Chief was in violation and that it was highly inappropriate for the Council to accept training that was completed so late. Chief Morency asked for the date the Form B was submitted, and Mr. Lohmann confirmed that on May 19 the form was received, effectively placing Chief Davis on a leave of absence.

Chairman Prozzo underscored the fact that Chief Davis did not complete firearms or Use of Force training for 2007. The documentation of training on May 24, 2008, can be applied only to the requirement for 2008. Chief Magnant asked if an extension had been granted for completing the 2007 requirement that allowed Chief Davis to satisfy the 2007 requirement in May 2008. Major Stafford stated that no extension had been granted and that Chief Davis had been told that it was not appropriate for him to continue to work without having completed the outstanding requirement for firearms and four-hour Use of Force training for 2007.

Chairman Prozzo asked if the Council had further questions for Mr. Lohmann before Chief Davis' testimony was heard. It was noted that officers who have not met these annual training requirements for the prior year by the end of January of the current year receive a letter from the Director. In the case of Chief Davis, two letters were sent, and in the second letter he was informed that his certification was at risk for being suspended and he would be asked to appear before the Council. There was no response from Chief Davis until he was contacted by telephone by Major Stafford.

Chief Davis was sworn and gave the following testimony. In November 2007, Chief Davis was scheduled to attend firearms training, but on November 1 Mrs. Davis was admitted to the hospital for a heart ailment. Ultimately, she was admitted to Tufts Medical Center for a week of evaluation and subsequent surgery to install a pump (LVAD implant). Because of the urgent need to care for his wife who was hospitalized in Boston in the ensuing weeks, Chief Davis was unable to attend the firearms training scheduled previously. After Mrs. Davis improved and returned home at the end of December, the Chief needed to be at home to assist her with daily care and to accompany her on weekly appointments in Boston through the end of March 2008.

In March 2008, Mrs. Davis health had improved enough to allow other family members to participate in her care; until then, Chief Davis was the only person trained to tend to her complex medical needs that included operating/maintaining the pump needed to treat her illness. It was in March that Chief Davis finally returned to work, after being reelected, with the intention of resuming all responsibilities and obligations that had been put on hold in November when his wife became ill.

Chief Davis stated that he had explained his circumstances in a phone call with Major Stafford, as well as in a letter that he had brought with him today. His activity since March has been mostly administrative and Chief Davis did not feel that at any time did he place himself or the community at risk for liability issues. He expressed his strong desire to retain his certification and his regret for not being able to meet his training obligations. He asked the Council to consider the hardship endured by his family over the last several months and apologized for having to appear before them. Chief Davis stated that he had been police chief for 10 years and during that time he had had no compliance issues.

Chairman Prozzo asked if he routinely delays training until the last months of the year. Chief Davis replied that the timing depended on when training was available; in 2005 and 2006, he completed his training at the Grafton County Sheriff's Department in the middle of the year. This opportunity was not available to him in 2007.

Director Vittum pointed out that Chief Davis had indeed appeared before the Council for a prior compliance issue, namely, a background investigation issue. Chief Davis conceded that this was, in fact, a prior compliance issue, that he had signed off on the inappropriate background investigation of another officer.

Chairman Prozzo asked the Director and Mr. Lohmann if there have been similar annual compliance issues before and what was required to remedy the problem. Mr. Lohmann stated that typically the officer is given the opportunity to "make up" the missed training and then complete the current year's training requirements on time.

Commissioner Wrenn said that the choice Chief Davis made to put his family first was understandable, but he felt that more could have been done to mitigate the compliance issue. Perhaps a greater effort to locate another opportunity for firearms training; this training can be done at an indoor range during winter months, if necessary. Because the Chief delayed this issue for five months, Commissioner Wrenn felt that his certification should be suspended for an equal length of time.

Therefore, Commissioner Wrenn put forth a motion that Chief Davis' certification be suspended for a five-month period effective immediately, and, at the end of the five months, Chief Davis will need to produce documentation that he has satisfied requirements for 2008, the four-hour Use of Force training requirement for 2007, and has passed 2008 firearms qualification, before certification will be reinstated. Chief Magnant seconded the motion.

Chief Morency, although sympathetic to the Chief's family obligations, felt that the absence of any contact with Police Standards and Training before January 2008 was not acceptable. He agreed with Commissioner Wrenn that more could have been done to get the required training before May 2008. Judge Roberts noted that the Council Rules include a provision for "just cause" and he thought it may be appropriate to apply to this case. Judge Roberts agreed, though, with Commissioner Wrenn, that there should be some form of sanction; he suggested suspending certification for five months, with three of those months "suspended" on the condition that there is no same or similar violation for the next two or three years. There would still be a period of suspension and an additional period if there are future violations, but it also allows the Chief to continue to serve the Town of Warren. Judge Roberts felt that because Chief Davis was the sole person trained to care for his wife's medical needs from January through March 2008, it would be appropriate to give consideration to a more lenient penalty than one that would be appropriate for willful violations of annual training requirements.

Responding to Chairman Prozzo's question, Chief Davis stated that State Police and the Sheriff's Department did provide coverage during his absence from January through March 2008. The Chairman confirmed that the firearms training completed on May 24 satisfies the 2007 requirement, and suggested that the suspension be effective until such time as the 2007 Use of Force and 2008 firearms requirements have also been satisfied.

Commissioner Wrenn insisted that five months was fair, considering that five months passed before the Chief made any effort to rectify the situation. In order to get his certification reinstated, 2008 requirements should also be satisfied. Chief Russell supported Judge Roberts' suggestion that the circumstances merited a suspension of less than five months. Chairman Prozzo called for a voice vote on the pending motion; the motion failed, with two in favor and four opposed.

Chief Morency moved that the Council suspend certification for no more than 90 days or until Chief Davis can produce documentation of having completed all current and overdue training; an additional two-month suspension would be applied if these conditions are not met and/or another compliance issue is raised in the next two calendar years. Judge Roberts seconded the motion.

Chairman Prozzo asked for clarification: Is it understood that suspension will be effective for 90 days? Chief Russell asked what would happen if the requirements were met in 30 days. Chief Morency restated that the suspension period was for 90 days; in that time, Chief Davis needs to get his 2008 certification. If the requirements are met within 30 days, 60 days will be suspended; otherwise, the suspension will be in effect for 90 days.

Commissioner Wrenn remained steadfast that making the suspension conditional would set an undesirable precedent and would create administrative issues because of the need to continue to monitor the case. The Council long ago agreed on a policy for consequences and penalties for violations and they discussed holding penalties in abeyance. Commissioner Wrenn recalled that an informal decision made at that time was that the consequences for violations are "cut and dried" and there was agreement on what constitutes a noncompliance issue. Chairman Prozzo supported having a more narrowly defined suspension period and clear expectations of what needs to happen to resolve the situation.

Chief Morency amended his motion and moved to suspend Chief Davis' certification for a period of 90 days. Chairman Prozzo clarified the full motion, stating that Chief Davis must complete all overdue training and 2008 requirements within 90 days to have his certification reinstated. Judge Roberts seconded the amended motion and there was no further discussion. A voice vote of the Council carried the motion, with only Chief Russell opposed.

Other Business

Adoption of Final Proposal of Amended Rules, Parts Pol 200-600

Mr. Lohmann informed the Council that interim Rules had been filed with the Joint Legislative Rules Committee (JLCAR) to ensure that the current Rules do not expire if the Rulemaking staff objects to changes that we want to make. The interim Rules replicate exactly what is in place now. The Rulemaking staff commented rather significantly on our changes, but at their hearing they did not file an objection and the interim Rules were passed and made effective for the following 180 days. Mr. Lohmann presented paperwork for the Chairman's signature and explained that the final proposal of amended Rules has been delayed by the additional comments and objections of the Rulemaking staff and these recommendations have been incorporated. Mr. Lohmann and Investigative Paralegal Anne Paquin have met on multiple occasions with the Rulemaking staff and anticipate that at last this matter has been finalized.

Mr. Lohmann asked that the Council approve the interim Rules and also approve the final proposal for Pol 200 and 300. These documents were distributed, with changes noted, and Mr. Lohmann indicated that additional changes are required for the Part-Time physical fitness testing. Most of the changes presented are changes that were required by the Rulemaking staff; the change that makes the most significant impact on the agency's day-to-day operations is a provision added to Pol 301.05, **Eligibility Hearings**.

Mr. Lohmann noted that the following language was added to Pol 301.05:

(n) The council shall not certify a person as a plice, corrections or probation/parole officer, as applicable, if it finds that an applicant was hired by an agency despite meeting any of the disqualifying criteria set out in Pol 301.05 (g)

This additional language grants the Council further authority over Eligibility Hearings. Mr. Lohmann felt that additional work needs to be done on Rules pertaining to ongoing three-year fitness testing, but he recommended that the Council approve those changes at a later date.

Commissioner Wrenn moved that the Council approve the interim Rules and also approve the final proposal for Pol 200 and 300. The motion passed on a unanimous voice vote after a second by Chief Morency. Chairman Prozzo commended Ms. Paquin and Mr. Lohmann for their diligent efforts and noted the substantial time involved with the recent Rule changes.

Protocol for Graduation Ceremonies

Commissioner Wrenn asked the Council to discuss Council policy for graduation ceremonies and allowing relatives of graduating recruits to participate in presenting certification and/or awards. These activities have a major impact on the length of the ceremony and more and more of these kinds of requests are made of the Director.

In the absence of a formal protocol, the Commissioner suggested that the Council express to the Director what their expectations are so that this can be communicated when such requests are presented.

Director Vittum commented that the graduating class of the 146th Full-Time Police Officer Academy will include two recruits who are the third generation of their families to enter law enforcement, one a State Police Trooper and another officer from a local agency. This presents a unique situation that is appropriate to be recognized during the graduation ceremony. The Director suggested presenting seated family members with an Academy pin mounted on a plaque; photographs should be allowed, but not during the ceremony. Requests for photographs will be accommodated after the formal ceremony.

For the first time, a local agency has been asked to provide a color guard for the ceremony, along with the normal contingent of State Police (color guard and motorcycle brigade). The Director will select a different local agency to participate in each future graduation, too.

Director Vittum expects the 147th Session to fill quickly and it is possible that the final number of applicants will exceed the facility's maximum capacity of 62 beds for male recruits and 12 beds for female recruits. Already 51 applications have been received.

Judge Roberts moved that the Council ratify the Director's decision to limit family member participation to recruits that represent the third or fourth generation of New Hampshire law enforcement officers, to be seated in the front row, with no family members invited to come onto the stage for presentations. After a second by Commissioner Wrenn, the Council voiced their unanimous approval.

Chairman's Remarks to Staff

Chairman Prozzo and Chief Morency acknowledged the efforts of the staff members who put together this year's Looking Beyond the Traffic Ticket event on May 21, 2008. Over 140 people attended and enjoyed the facility and the program. This year the team who organized the awards included Major Robert Stafford and Council Secretary Kathryn Day; Captain Benjamin Jean and Captain Kimberly Roberts provided additional support at the venue, The Beacon Resort, in Lincoln, New Hampshire.

NONPUBLIC SESSION: Acceptance of proposed Plea Agreement on two former New Hampshire police officers.

A motion by Commissioner Wrenn to enter into nonpublic session to discuss personnel matters, with a second by Chief Morency, carried upon a unanimous roll call vote by the Council. The nonpublic session commenced at 11:23 a.m.

Chief Russell moved that the minutes of the nonpublic session be sealed, and the motion was put to a roll call vote following a second by Commissioner Wrenn. The vote of the Council was unanimous in favor of the motion.

Chief Morency moved to exit the nonpublic session, and the motion was seconded by Commissioner Wrenn. Upon the unanimous roll call vote of the Council, the nonpublic session concluded at 11:30 am.

Upon return to public session, Chief Magnant put forth the following motion: That the Council accept the language suggested in reference to the surrender of certification for the two officers at issue in a confidential memorandum from Mr. Keith Lohmann, dated May 12, 2008. The language to be adopted is as follows:

“Surrender of (name)’s New Hampshire certification as a full(part)-time police officer with the consent of the New Hampshire Police Standards and Training Council. (Name) also understands that such surrender has the same effect as a decertification, which is based upon conduct that is actionable under Pol 402.02 (a) (2) and Pol 402.02 (a) (4) a., and (name) may not request rescission of the action any sooner than two years after the date of the Council’s acceptance of the surrender, pursuant to Pol 402.02 (h).”

Chief Morency seconded motion. Hearing no discussion, all those in favor voiced their approval, which was unanimous.

Upcoming Hearings

The Director informed the Council that a number of hearings will be scheduled in the near future and some of these will need to be scheduled independent of Council meeting days over the course of the next several months. Some of these issues may be resolved with officers’ attorneys in the interim, and the Director will keep the Council apprised.

The Council recommended that the Police Standards and Training Council Administrative Rules and any applicable RSAs be uploaded to the laptops designated for use at future Council meetings.

Next Meeting Date/Adjournment

The next meeting of the New Hampshire Police Standards and Training Council will be held on Tuesday, June 24, 2008, at nine o’clock in the morning, at the John D. Morton Conference Room at 17 Institute Drive, Concord, New Hampshire.

Upon a motion by Judge Roberts, seconded by Commissioner Wrenn, the Council voted unanimously to adjourn the meeting at 11:32 a.m.

Respectfully submitted,


Chairman Michael L. Prozzo, Jr.