



STATE OF DELAWARE
DEPARTMENT OF SAFETY AND HOMELAND SECURITY
COUNCIL ON POLICE TRAINING

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SPECIAL MEETING MINUTES

Friday, April 3, 2020

0900 hours

Delaware State Police Training Academy
1453 North DuPont Highway, Dover, Delaware 19901

MEMBERS PRESENT

Robert Coupe, Chairperson

Robert Irwin, Department of Justice (Proxy for Kathleen Jennings, Attorney General)

*Major Robert Hudson II, Delaware State Police (Proxy for Colonel Nathaniel McQueen, Jr.)

*Inspector Charles Emory, Wilmington Police Department (Proxy for Chief Robert Tracy)

*Captain Diane Smith, New Castle County Police Department (Proxy for Chief Vaughn Bond)

Acting Chief Tim Stump, Dover Police Department

*Sergeant Christopher Jones, Newark Police Department (Proxy for Chief Paul Tiernan)

Mayor Lew Killmer, President – Delaware League of Local Governments

Mayor Robin Christiansen, City of Dover (Kent County Mayoral Representative)

Mayor William West, City of Georgetown (Sussex County Mayoral Representative)

*Chief Patrick Ogden, Chairman – Delaware Police Chiefs' Council, Inc.

ADMINISTRATIVE STAFF PRESENT

Captain Jason Sapp, Director of Training - Delaware State Police

*Joseph Handlon, Deputy Attorney General

GUESTS PRESENT

*Captain Jennifer D. Griffin, Delaware State Police

Jeffrey Horvath, Delaware Police Chiefs' Council, Inc.

Chief Thomas A. Johnson Jr., Dover Police Department

*Major Sean Moriarty, Delaware State Police

*Major Galen Purcell, Delaware State Police (Retired)

* Christopher Klein, Deputy Principal Assistant, DSHS

Note – Asterisk () indicates that the respective person appeared remotely either by telephone conference or video conference call.*

Pursuant to the Declaration of a State of Emergency issued by Governor John Carney effective Friday, March 13, 2020 at 8:00 AM, "...all public meetings of executive branch public bodies governed by 29 Del. C. §§10001 et. seq. (including boards, commissions, tasks forces, and any other similar public body) may be conducted electronically, either by means of telephone conference call or video-conference call..."

I. Call to Order:

Secretary Robert Coupe, Chairman of the Council on Police Training, declaring a quorum present, called the meeting to order at 9:25 AM. Chairman Coupe noted that the purpose of the special meeting was to consider the "Exemption from Training" request from Chief Thomas Johnson (Dover Police Department) after the initial evaluation of reciprocity by Captain Sapp indicated that Chief Johnson was not qualified for COPT certification.

II. Presentations:

1. Captain Jason Sapp, Administrator - Council on Police Training

Captain Sapp provided an overview of his evaluation of Chief Johnson's prior training that brought him to the decision that, by his interpretation, Chief Johnson did not meet the requirements to be exempt from training.

Captain Sapp began by noting that the Council on Police Training Regulations state that, *"The Chief of Police of the municipality seeking waiver of training obtained in Delaware must submit to Council an application for Exemption of Mandatory Training." (Regulation 801, Section 5.2.2)* Further, the Regulations state, *"The application must be completed in its entirety and submitted to the Administrator prior to appointment by the requesting agency. The officer must enclose a copy of the certificate of training from the police academy, which provided police basic training. The officer must also endorse a copy of the curriculum from that academy which must include: description of courses taught; hours assigned to each course; and, a brief synopsis of the material taught in each course."* (Regulation 801, Section 5.2.3) Finally, the Regulations state, *"If an applicant, upon review of their training, needs to take more than 40% of the minimum number of hours of training in the state of Delaware, then they must attend a Delaware approved Academy in its entirety."* (Regulation 801, Section 5.2.6)

Captain Sapp noted that he conducted his initial review in support of Chief Johnson's reciprocity request from a two page document from the Delaware Community College Municipal Police Academy, which consisted of a charted agenda from 1996 with very broad course titles as well as hours assigned to each course, Captain Sapp credited Chief Johnson with 257 of the 350 hours necessary for exemption considerations which equates to 44%, as opposed to the 60% required. Captain Sapp then took the initiative to contact the Delaware Community College Municipal Police Academy and ultimately the Municipal Police Officers Education and Training Commission (Harrisburg, PA) seeking more detailed information. Based on the information received from those actions, Captain Sapp advised that he ultimately amended the credited hours by five credited hours thereby lowering the percentage from 44% to 43%.

Captain Sapp advised that his interpretation of the Regulations, as well as the actions of Administrators that came before him is that exemption consideration must be based upon a candidates initial training. However, to conduct the most comprehensive review possible, and due to the fact that others could have different interpretations, Captain Sapp reviewed the employment packet submitted by the Dover Police Department which contained a plethora of training certificates that Chief Johnson obtained during the course of his career.

After reviewing those certificates, Chief Johnson still fell short of the 60% requirement for reciprocity coming in at 55% (321 hours).

Captain Sapp noted that in the analysis only the following courses meet the reciprocity requirements in their entirety: (1) Constitution and Bill of Rights; (2) Firearms; (3) Fitness & Wellness; (4) Introduction to Law Enforcement; (5) Other Police Agencies Jurisdiction; and (6) Police Discipline & Ethics.

Captain Sapp ended his presentation with reiterating that reciprocity reviews involve an inherent degree of subjectivity, but with all options evaluated Chief Johnson simply does not have the required number of hours to receive an exemption of training.

Following Captain Sapp's presentation, there were no questions from the Council.

2. Chief Thomas Johnson, Dover Police Department

Chief Johnson addressed the Council with a PowerPoint presentation that is attached to these minutes. The PowerPoint presentation included Chief Johnson's Background; Upper Darby Police Department commendations and history; Adjunct Instructor/Professor information; Core Training Sources; Career Training Sources; Act 120 Program Overview; and information related to COPT Reciprocity and Chief Johnson's appeal for relief.

III. Discussion:

Following the presentations by Captain Sapp and Chief Johnson, Chairman Coupe opened up the floor for discussion by the Council.

Chief Ogden started discussion by stating that in the past, there was someone who was a graduate of the Delaware State Police Training Academy who then left law enforcement beyond the five (5) years expiration of credentials. That officer was required to go back through and complete the Academy in its entirety. Chairman Coupe echoed those comments and stated that the officer was required to come back and take the classes but was not required to complete the physical training with the Recruit Class. Chief Ogden stated that it is crucial that we remain consistent with past practices.

Chairman Coupe advised that there are historical references that should be considered. Over the past ten years, there have been at least two or three incidents that he can recall for an out-of-state officer moving into a Chief's position.

Chief Ogden commented that Chief Johnson presented the fact that he completed the ACT120 training in Pennsylvania and then spent 20 years in law enforcement. The University of Delaware Police Department hired an ACT120 certified officer in the recent past, however it took almost six (6) months or so to get the certification by COPT, so it has been decided by UDPD that all ACT120 certified officers will have to complete a Delaware Academy in its entirety.

Chairman Coupe stated that when we look at the original code, it doesn't specify that the focus of training and education is limited to the Academy. Coupe offered the opinion that the regulations is really for young people that just went through an Academy, maybe not for those that went through

an Academy several years ago. Coupe presented a question to the Academy of whether or not they are concerned with the Academy training of someone over 24 years ago, or the training that they have received over the course of their career. Coupe offered that it seems counterintuitive to not look at all of their training throughout their career.

Chairman Coupe deferred to DAG Handlon for a legal opinion on the ability of the Council to consider post-Academy training since the code seems to be broad, but the regulations have more specificity. DAG Handlon advised that the code pretty broadly says that the Council is to establish criteria. It could arguably be read to allow to go beyond Academy training. As Captain Sapp says, the 60% requirement relates to the Academy Training, and Regulation 5.2 as a whole supports that interpretation as well. There seems to be enough ambiguity that the Council could deviate from that interpretation if they chose to do so. DAG Handlon recommended that the regulations be amended, regardless of the decision, so that there is no wiggle room in the future. DAG Handlon surmised that the best interpretation is consistent with Captain Sapp, but there is enough to give the Council a choice.

Chairman Coupe advised the Council that it is okay for them to say that they need more time, but the point of moving forward with this special meeting, despite the current COVID-19 restrictions, was that an Academy is about to begin in the coming months and there needs to be some clarity. Providing the right to due process is crucial and we have the time to do that with the Academy postponement. Clarifying with DAG Handlon, Chairman Coupe also presented to the Council that they have the ability to only allow for Academy Training, or they could allow for consideration of post-Academy training.

Chairman Coupe inquired of Captain Sapp if any of the information that was presented by Chief Johnson today was not provided to him during the initial submission of credentials. Captain Sapp advised, "No". Captain Sapp went on to explain that it is important to remember that when we are considering reciprocity, there are certain categories that the training must fall into. A candidate may have FBI master level courses, but if they don't match up to any of the 33 categories of training mandated by the COPT, then it cannot be considered.

Major Hudson inquired of Captain Sapp if we have ever accepted ACT120 in the past. Captain Sapp stated that he knows of one, in 2002. Captain Sapp advised that the documentation of that 2002 reciprocity left him quite confused because there is no written correspondence at that time of what percentage was required to be exempted from training. The curriculum that was provided at that time is identical to that of Chief Johnson, but the minimum hours of training in 2002 was only 498 hours.

Chief Ogden reiterated that he wants to make sure that we are fair to Chief Johnson, but we also have to be fair and consistent with the regulations and think about the precedent that we are setting for the future.

DAG Handlon made sure to allow Chief Johnson to ask any questions as this point, however Chief Johnson advised that he did not have any questions at this time but he did make the statement that ACT120 was his initial certification, in years following he attended ACT180 which is like going back

for a “refresher” each year. Chief Johnson said that he is requesting that with the additional ACT180 training that he be assessed favorably at 60% with the added capture of additional training. “I am going to go to those classes, I am not trying to lower the standard” relayed Chief Johnson.

Mayor Christiansen stated that he is making a request in earnest to give a temporary certification to his Chief. Mayor Christiansen advised that he is not asking the Council to veer away from the standards, but the Chief Johnson situation is different from the past. Mayor Christiansen stated that the top three candidates for the position were all out-of-state and would have been in this same boat if they were hired and asked that the Council should consider any contingency that could be put into place.

Mr. Horvath commented that Chief Ogden and Captain Sapp both make great points. There is no doubt that Chief Johnson is qualified for the job, but we have to be fair and consistent to the Regulations. The Police Chiefs’ Council was involved in the past in the search of a Chief for the Town of Laurel and Town of Smyrna. In both incidents, there were applications from Federal Law Enforcement officers that were more than qualified, but they were not interviewed because they would have to go through the entire Academy based on the Regulations. We need to be fair and consistent across the board because of the decisions that we have already made in the past. Mr. Horvath presented the fact that he retired from the Lewes Police Department four (4) years ago, and he accepts that fact that if he takes a position after five (5) years of retirement, he will have to go through the Academy again.

Chairman Coupe invited the Council to ask any questions of Major Galen Purcell, Major Sean Moriarity, and Captain Jennifer Griffin who all were teleconferenced in with the meeting, and all of whom have served in the capacity of Administrator of COPT in the recent past.

Mr. Irwin asked the same question of each of the prior Administrators, “In your tenure as COPT Administrator, did you have any situations that were similar with respect to agencies hiring someone out-of-state?”

Captain Griffin, the predecessor of Captain Sapp, advised that she had encountered this situation, and in all incidents including Chief Longo of Milton Police Department, they all met the 60% threshold. Captain Griffin advised that it is important to understand that if you change the standards and make a decision different than the current interpretation, it will be for ALL officers, not just Chief’s.

Major Moriarity, who held the position prior to Captain Griffin, advised that he also handled situations similar and all exceeded the 60% threshold.

Major Purcell, who held the position prior to Major Moriarity, advised that he was the Administrator for eighteen months and cannot recall a situation similar to this that he handled in its entirety.

Mayor Killmer inquired of Captain Sapp if it is possible that one of the reasons that this is unusual is that someone of Chief Johnson’s caliber don’t apply because they know that they have the possibility of going to the Academy, and if so, are we losing good people. Captain Sapp responded by

stating that he cannot speak to others, but that the Academy aspect is something that out-of-state officers certainly have to take into consideration. Additionally, anyone that is coming to Delaware from out-of-state is going to have to take courses. There are courses specific to Delaware that no out-of-state officer would have been exposed to and each of them are notified of what they will have to complete after their reciprocity review and only if they meet the initial training threshold.

Chairman Coupe wrapped up the portion of discussion by stating that we know the system that we use right now, and if the Council isn't happy with it, then it can be changed, but it will have to go through the regulatory system. It seems that it would be appropriate for a fresh set of eyes to look at this system to ensure that we are not preventing anyone from out of state with talent to come here. The decision that is at hand today is one situation, and then the regulations is a separate that will be handled at a later date.

Chief Johnson asked the prior Administrators if in a general sense, the 60% threshold is for the entirety of the COPT requirements which includes Delaware classes, then is it impossible for someone from out-of-state to obtain 100%? Captain Griffin advised that his statement is correct, and that for that reason the 60% threshold is in place, which includes the core training of any officer. In cases considered before, it shows that there isn't issue with obtaining the 60% threshold.

Chairman Coupe advised that there are a few options to move this meeting forward, (1) rest, consider what we have heard and reconvene at the April 14th meeting, or (2) consider any motion from the Council on the subject. Chairman Coupe advised that we are not considering Chief Johnson for approval as a Certified Police Officer today, but what training is to be evaluated.

With members of the Council agreeing that they should push forward and make a decision today, DAG Handlon asked if the members of the Council needed to be afforded the opportunity to look at the binder provided by Chief Johnson (as all members were not physically present). Chairman Coupe advised that he believed that the contents of the binder are only relevant if we wish to consider a great body of work, or if Chief Johnson says that the information given to Captain Sapp is different than what is in the binder. Chief Johnson advised that what Captain Sapp has is the "sum total" of his training. The Community College where training is certified did not retain his records and there is no indication from them of when the documents were disposed of. The binder that is before everyone is a backup to the information presented to everyone if there was a necessity to dive in further. Chief Johnson advised that it did not contain all of his training, and there are more certificates.

DAG Handlon inquired of Chief Johnson if there was any more information that he wanted to bring that needed to be considered by the Council. Chief Johnson advised that he if is going to be assessed by his post-Academy training then there are more certificates that he wants to provide.

Chairman Coupe indicated to the Council that the decision that needs to be made is if they are going to consider post-Academy training. If it is of the authority of the Council to do so, then a motion should be made to do so, or not.

Major Hudson inquired if post-Academy training had already been considered based on the documentation that was provided. Captain Sapp advised that it had, and even with that information and considering the thirty-three categories, Chief Johnson did not meet the threshold. It is important to remember that if a candidate has an abundance of hours of training in a certain category, there is only so many hours that can be awarded (based on COPT regulation).

Chairman Coupe inquired of DAG Handlon the validity of a motion that states, "I make a motion to consider law enforcement training beyond the Academy training for Chief Johnson; however, that training still must be specific to the 33 categories of the COPT standards." Chairman Coupe advised he was not yet making that motion just wanted a legal opinion. DAG Handlon advised that it is a valid motion.

Mr. Horvath indicated that we need to make sure that the responsibility falls on Chief Johnson and the Dover Police Department to provide the additional documentation and make sure that it indicates the number of hours. There is no way to assess training certificates without the hours, or we need to give guidance to Captain Sapp on how to assess them. Chairman Coupe advised that we aren't going to know until the additional information is available. We have no idea if we are going to meet the 60% threshold with additional documentation, but we do need to give Chief Johnson and the Dover Police Department the opportunity to look at the standards and then look at what they want to present minus the fluff. We will evaluate whatever is presented and then make an informed decision as a Council.

Chairman Coupe motioned to consider law enforcement training beyond the Academy training for Chief Johnson; however, that training still must be specific to the 33 categories of the COPT standards. Motion seconded by Mayor Killmer.

There were several comments on the motion:

- Chief Ogden advised that he really would like to hear feedback about this motion if we are setting a precedent because it needs to be fair and consistent and it does not seem like we are doing so with what was done in the past. There was no discussion related to Chief Ogden's suggestions.
- Mayor Killmer stated that as a non-law enforcement member on the Council, he has difficulty understanding the process, and that it seems that Council is making it extremely difficult for someone to come from another area and be successful.
- Mayor West stated that we know that law enforcement training never stops, so it doesn't seem right that only initial training is considered.

The motion was voted on by way of roll call with Acting-Chief Stump and Mayor Christiansen recusing themselves:

- Chairman Coupe – Yes
- Mr. Irwin – Yes
- Major Hudson – Yes
- Inspector Emory – No
- Captain Smith – No
- Sgt. Jones – Yes
- Mayor Killmer – Yes
- Mayor West – Yes
- Chief Ogden – No

The motion was carried (6 yeas, 3 nays, 2 recusals).

IV. Adjournment:

The Special Meeting was adjourned at 12:35 P.M.