

**BOARD OF SELECTMEN
AUGUST 6, 2003
OPEN DISCIPLINE HEARING
"APPROVED"**

Mr. Cunningham moved to enter into Executive Session at 9:15 p.m. pursuant to M.G.L Chapter 39, Section 23B to consider the discipline or dismissal of, or to hear complaints or charges brought against a public officer, employee, staff member or individual. Seconded by Ms. Wood. Roll call vote: Hartnett - yes; Dillon - yes; Wood - yes; Cunningham - yes.

Also in attendance were Attorney Marcelino La Bella (La Bella) representing the Town from Kopelman & Paige, P.C.; Police Chief Robert L. Mulhern (Chief); Lieutenant John Rooney (Rooney); Attorney Joseph G. Donnellan (Donnellan) from the Law Offices of Timothy Burke representing Officer Sean Ramsay; and Officer Ramsay (Ramsay).

Mr. Cunningham stated to Donnellan that Ramsay has the right to have the meeting held in Open Session.

Donnellan informed the Board of Selectmen that Ramsay did in fact want the hearing in Open Session.

At 9:15 p.m., Mr. Cunningham moved to adjourn the executive session and convene into Open Session. Seconded by Wood. Roll call vote: Hartnett - yes; Dillon - yes; Wood - yes; Cunningham - yes.

La Bella entered for the record the "Notice of Hearing" letter to Officer Ramsay dated July 31, 2003 as Exhibit 1. La Bella stated that this notice of hearing contains four charges in total against Ramsay and told the BOS that any of these separate and individual four allegations, if proven correct, and based on his previous information, is basis for termination.

John (Jack) Saball (Saball) was called as a witness. Ms. Kitchen, as a notary, swore Jack Saball in.

Saball was asked and gave his history on the Groton Police Department (GPD). He retired on 9/1/2002 with 29 years at GPD as Captain. He came up through the ranks, including system administrator for GPD records. In 1990, the department purchased a computer that housed the Pamet system. Saball further stated that he became familiar with system via training, which took place in Acton, was assigned the task of initiating the system, overseeing data entry, ensuring the database was built containing streets, cross streets, personnel, user name and passwords and general oversight of the system as functionality purposes for access by member of the GPD. He explained that the Pamet System is a software designed to keep records including name files, arrest records, proprietary record keeping of GPD, including tracking personnel records, court records, word processing system but that it differed from what people are familiar with now because it was not a window-based system. It was a menu-driven system. Saball also explained that he ensured back up of the system, did updates of the software on an annual basis, ensured new employees hired were entered and had various levels of access and that when employees left the employ of GPD, their accounts were made inactive or deleted. Saball stated the only way to access Pamet was with a user name and password. Regarding the A.C.N, Saball explained that Pamet uses an email system to notify different users of a court date, generated by the system administrator. Staff enters information provided by Ayer District Court or the District Attorney's office of upcoming court events. If certain events do not require a particular officer to appear then GPD is not notified. The information Pamet gives the particular officer is via email and includes the date and time of hearing, name of case, defendant and reason for appearing or any motions for trial. He added further that the "subject line" of the email is Automatic Court Notifier (A.C.N.). The employee logs into the computer system with user name and password and the first screen that appears is "new mail." For the purposes of integrity of record keeping, only the user knows his/her password and that information is not allowed to be shared with anyone. Saball reiterated that he was the system administrator; that Lieutenant Rooney was his replacement; that the system administrator cannot log into anyone else's email. He stated that in the unlikely event that a user forgets his password, the system administrator would set up a new account and password and that in that event, the first screen that the new account would reveal is to change their password. They cannot go any further without changing their password and that the system administrator does not know the user's password because it is immediately changed upon logging into the system. He further stated that there is no notebook kept by the system administrator of names and passwords. Saball reiterated that upon access to a user account, the first screen is "new mail." If the user reads his "new mail" it then gets delivered to "mail box" status only after it's been read and that the last screen is the waste basket. La Bella asked Saball if a user could log in, choose NOT to read his new mail. Saball answered yes. La Bella then asked what would happen to the new mail. Saball answered that it would stay "new mail." La Bella asked if there was any way to get "new mail" to "mail" without that message being read. Saball answered no.

Donnellan cross-examined Saball.

Saball affirmed that he is an elected member of the Board of Selectmen. When Donnellan inquired why he was not voting as a member of the Board of Selectmen, Saball replied that he was advised to recuse himself by Town Counsel. He did further explain to Donnellan that he was not the only person who knew the Pamet system; that the GPD is aware of procedures and have been trained on the system and are familiar with policies and procedures regarding their accounts. He did state that his belief was that Lt. Rooney is the Systems Administrator (SA) now and that he did train Rooney as SA. Saball also replied that he did not think that the computer system ever had problems other than periodic maintenance. Donnellan then inquired if Saball liked Officer Ramsay. Saball asked Donnellan to say that again. Donnellan asked if he's held a grudge against Ramsay since not becoming Chief. Saball informed Donnellan that this was not correct. Donnellan asked Saball if he sought support of the Chief's position through Ramsay. Saball did not recall this. Donnellan inquired if Saball was having a lapse of memory and asked if he sought the position of Chief? "Yes," replied Saball. Saball confirmed that he did not get the position of Chief and that it did not bother him. Saball then reiterated that in the 12 years of SA, he has never known a message to get from "new mail" to "mail" without the user reading the message.

La Bella called Lieutenant John Rooney to the stand as a witness. Jean Kitchen swore in Rooney. Exhibit 2 was entered into the record as "Commonwealth vs. Michael E. Freitas, Motor Vehicle Appeal dated June 20, 2003." Rooney confirmed that he was the author of this document. He further stated that he has been with GPD for two and ½ years and lieutenant for one year. His duties are charge of operations under the Police Chief, detective, system administrator -- that he replaced Saball, court prosecutor, deals with maintenance and has some impact with the budget. Rooney confirmed that he heard Saball's testimony and confirmed that Saball's explanation of the A.C.N. is the same procedure. Rooney confirmed that Exhibit 2 was the document he produced as a result of the investigation based on Officer Ramsay's conduct. Rooney did confirm that he did investigate Ramsay in the past and that this recent investigation was due to Ramsay missing a motor vehicle appeal before Ayer District Court on which he was supposed to give testimony to the knowledge and facts for the citation. Rooney did confirm that he was present at Ayer District Court on June 12th and when the case was called and Ramsay was not present, as a prosecutor for the GPD, he was obligated to appear on Ramsay's/GPD behalf. Rooney confirmed that he did check the log-in sheet at the Ayer District Court and confirmed that Ramsay was not present and reported this to the Chief and that the Chief requested an investigation. Rooney further stated that he did direct Ramsay to submit a written report on June 12th regarding his failure to appear, which Ramsay did submit on June 13th, and that Ramsay wrote that he did not receive and (ACN). Rooney then continued that he then disabled Ramsay's account to the Pamet system and he could not access his records that day. Rooney then met with Ramsay on June 18th regarding the investigation. Present for this meeting were Rooney, Ramsay, Officer Gemos (Gemos) as Union Representation and Sergeant Glejzer (Glejzer). La Bella inquired if Rooney then changed Ramsay's password to which he responded "No," he does not have the ability to do that; however, he did re-enable the account. At that point, Rooney explained he directed Ramsay to log on which Ramsay did. La Bella inquired if Rooney knew Ramsay's password which Rooney replied "No." The first screen appeared which showed he had 4 new mail messages. Ramsay read the messages and Rooney then took over the keyboard to bring up the directory of old mail messages. There were over 900 messages. Rooney then looked for the (ACN) by specifying a search for the date of record, which are stored in chronological order. Rooney found the A.C.N (#925), which indicated the court case. La Bella again asked Rooney if he had heard the sworn testimony of Jack Saball, which he did, and if it was fair to say that the new mail would have had to be opened in order to be stored in "mail." Rooney confirmed affirmatively. Rooney then indicated he asked Ramsay to view the notice. Ramsay declined. Rooney then asked Gemos if he had any questions regarding the procedure. Gemos replied that he was "all set." La Bella asked if Ramsay recollected getting the notice. Rooney replied that Ramsay told him he had no recollection. La Bella reiterated was there a chance that new mail could have been put into mail without anyone reading it. Rooney replied "no." La Bella asked if any other GPD member has approached him about problems with new mail ending up in the (read) "mail" and he said, "no." Rooney stated that that was the end of his investigation. La Bella inquired if he had heard of any union member stating the case of misconduct? Rooney replied that subsequently he learned that Ramsay accused him of planting the ACN. Rooney stated that "No, he did not plant it; that he does not have Ramsay's password." La Bella asked if he disliked Ramsay. Rooney replied "not at all." La Bella asked if he set Ramsay up? Rooney replied "absolutely not." La Bella asked if the documents to Exhibit 2 are correct? Rooney replied, "yes." La Bella entered Exhibit 3 as "Commonwealth vs. Anthony P. Mavilia - I0300316 Officer Sean K. Ramsay" dated June 26, 2003 into the record. Rooney confirmed that he was the author of Exhibit 3; that he put the packet together. Rooney was asked to describe the situation to the BOS. He stated that he was instructed to investigate this issue per the Chief regarding a missed court appearance. Rooney confirmed that he was notified via Pamet A.C.N. to appear on Tuesday, June 24th. Ms. Hazard-Taylor, Police Chief's secretary, in addition, made a copy of the A.C.N and placed it in Ramsay's mailbox according to her initials dated June 6, 2003, which is incorporated into the packet, marked Exhibit 4. Rooney explained that Sgt. Cullen, who was also required to attend this court case as well and had received the A.C.N, was in court. Ramsay was

not in court. The defendant pleaded the case. When questioned, Ramsay replied that he did not recall receiving the A.C.N. Rooney stated that that was the end of his investigation. He did not check his email to see if Ramsay had been notified. Ramsay stated that he did not recall the A.C.N. Rooney stated that Ramsay's account was disabled. La Bella asked Rooney what his rapport with Ramsay was, and if he disliked him. Rooney again replied, "no." When asked if Rooney had any reason to fabricate a case against Ramsay, Rooney replied "none whatsoever." Rooney agreed that yes, he was the internal affairs investigator and did recognize the two documents authored by him. Rooney added further that the Chief asked him to look into Ramsay's abuse of sick time, Exhibit 5, and that investigating was part of his duties in the traditional sense. Rooney stated that the information he received was that he was not incapacitated and would have been in a position to report for duty on June 10th and 11th. Rooney stated that he submitted specific interrogatories #1-10 to Ramsay and informed him to respond in writing. Ramsay did respond in writing and Ramsay's responses are included in the packet. Rooney further stated that Ramsay's reason for the sick time was sunburn; he did not deny being in New Hampshire on June 10th; For interrogatory #7 which asked Ramsey to explain why he was observed riding his motorcycle in Groton on June 10, 2003 after calling out sick? Ramsay wrote, "I have no idea why someone was observing me;" Ramsay later claimed it was not him on the motorcycle. Rooney confirmed that Ramsay called in sick at 8:00 a.m. for a shift that began at 3:00 p.m.

10:10 p.m. Donnellan cross-examined Rooney.

Donnellan asked Rooney to confirm that June 12th in Ayer was a civil matter, not criminal. Rooney explained that it's been GPD practice that all officers are requested as protocol for all motor vehicle appeals. When asked if any other officers have missed court; Rooney replied yes there were but that he did not recall who they were; that they were disciplined for traffic appeals; that he did not recall what form of discipline they received. When asked if Ramsay was one of the officers disciplined, Rooney stated that he would have to check his records to be absolutely sure. When asked if it was GPD policy to discipline if a motor vehicle appeal court date is missed, Rooney stated that each case is on an individual basis, it is investigated and complaint would be submitted to the Chief who would determine what level of discipline. When Donnellan asked Rooney if there had ever been a case of missed court and the case had been investigated and no discipline came of it, Rooney replied that he did not believe so. Donnellan inquired if he absolutely denied - Rooney replied, "he did not recall." Donnellan questioned Rooney that not recalling is not the same as denying receiving. Donnellan asked if that made Ramsay untruthful? "No," Rooney replied. Donnellan asked if Rooney made the report findings on June 20th? Rooney confirmed. Donnellan asked if Rooney found Ramsay untruthful? Rooney replied that in his opinion, Ramsay's denial was not credible and contradictory because Ramsay at first denied ever receiving the A.C.N then he had no recollection then he refused to look at the evidence presented. Donnellan asked if Ramsay caused Rooney personal embarrassment. Rooney replied, "yes." Donnellan asked how many times prior to Ramsay had GPD officers not shown for a hearing? Rooney replied this was the first time. Donnellan asked how many times has it happened since? Rooney replied twice. Donnellan asked what officers? Rooney could not recall without his records. Donnellan asked what was the "false information on records?" Rooney replied that based upon a preponderance of the evidence and facts before him, and some degree of evidentiary value that the system worked, #925 mail in opened mailbox indicating the A.C.N had been read, I found Ramsay untruthful. Donnellan asked Rooney if he ever said Ramsay was getting "jacked up" by the department? Rooney replied, "No." Donnellan asked Rooney if he ever used the term "jacked up." Rooney replied No. Donnellan asked if he knew what jacked up was? Rooney replied it has a variety of meanings and had Donnellan clarify using the context. Donnellan asked Rooney if he said Ramsay was getting "jacked up" by the department. La Bella objected stated Donnellan was badgering the witness, the term was not in the report. Donnellan asked regarding Mavilia which the defendant entered a plea and the officers were not required to testify if it made a difference that Ramsay was not there? Rooney replied that an officer is required to fulfill his responsibility. Donnellan stated that the case was plead and had no bearing on Ramsay's not being present and asked if there would have been less concern if the case was dealt with through a plea of guilty. Rooney replied that the concern would have been the same. Rooney confirmed that on July 17th, he submitted interrogatories to Ramsay and that Ramsay returned the answers timely; that he answered the interrogatories; that there was a need for follow-up; that the follow-up option was not taken regarding Ramsay's illness; that he took Ramsay on his word that he was sunburned; that it is policy that if an officer takes a sick day that they are available to be contacted at their home; that he had further concern regarding sick time based on an allegation of fellow police officers; that the officers names were Chris Lenney and Ben Sergeant; that Rooney did not interview or take statements from Lenney or Sergeant; that Officer Goodwin saw Ramsay at New Hampshire; that to the best of his knowledge, no one else saw Ramsay; that Goodwin was asked verbally and not written. Donnellan asked with reference to Exhibit 6 - Memo to Chief Mulhern from Sgt. Watkins (Watkins), Watkins informed the Chief that Ramsay was out sick on the 10th and 11th. Donnellan aside if there was a determination on one day or both days? La Bella objected stating that the charges are outlined in Exhibit 1.

La Bella redirected and Rooney confirmed that Ramsay did call in sick at 8:15 a.m. for the 3:00 shift; that he was spotted at 6:00 p.m. at a motorcycle rally, that he does consider this abuse of sick time; that it was sunny and warm on the 10th of June; that Laconia is approximately two hours away from Groton.

La Bella called Chief Mulhern as a witness at 10:40 p.m. Ms. Kitchen sworn Chief Mulhern (Chief) in.

Mulhern described his background as been in Law Enforcement since 1970, a Police Chief for over 7 years; has been with Groton since August, 2000, replacing George Rider who retired; has served in law enforcement in the capacity of patrolman, undercover, detective, captain, chief; has a Bachelors in Public Administration.

Exhibit 7 - Shift Schedule was entered as an Exhibit. The Chief stated that he did recognize the document as the weekly schedule that's posted; did confirm that Exhibit 1 listed the charges; and that Exhibit 7 illustrates Ramsay's lack of truthfulness of statements; on 6/17 he was on bike patrol as noted on the schedule; he was "out of uniform;" denied knowing he was on bike patrol; it was confirmed that not only was it posted on the schedule but an email was sent; then Ramsay countered by sending an email to Sgt. Glejzer stating "sorry for the confusion;" the Chief said "one of these statements is incorrect;" the Chief further added that this is a continuing problem for Ramsay. The Chief further confirmed that he drafted Exhibit 1; that it fairly represents why we are here today; that he spoke to many officers regarding Ramsay's sick time; Goodwin as well as others.

Exhibit 8 - Memo to file dated August 6, 2003 was entered into the records. The Chief described this document as having had the conversation with Goodwin, who was reluctant to say however relented when the Chief indicated he would order Goodwin if he had to; but that Goodwin was concerned because Ramsay was telling "others" that Goodwin was the one who reported him to the Chief; Goodwin confirmed that he did see Ramsay somewhere between 5 and 6 p.m. on Tuesday; that Ramsay now knows it was not Goodwin who reported him. The Chief also confirmed that Ramsay did call in sick 8:00 - 8:15 a.m., which is normal process for the 3:00 p.m. shift; that he was observed the same day at 10:30 p.m. by Sergeant Cullen; and that he was observed at 6:00 p.m. at Weirs Beach. Regarding the charges against Officer Ramsay, the Chief stated that relevant to Charge 1 - he did not appear in court as required by the rules and regulations and has a history of not appearing; Charge 2 - within a few weeks, again missed court, was notified by A.C.N, as well as a hardcopy was put in his mailbox, has been "on notice" regarding missing court dates which is a reoccurring thing; Charge 3 - regarding sick time the Chief is very concerned about abuse of sick time and being seen in another state while out sick and taking sick time just prior to a vacation; that recent language was incorporated into the new contract that if they were "out sick" they would be available to be contacted at home and that if the Chief did not suspect abuse of sick time, he would not contact them at home; Charge 4 - the Chief stated he was out of uniform, not prepared, untruthful about receiving the email; Ramsay's inability to communicate with his supervisors; the Chief stated that he's counseled Ramsay countless times, as well as Ramsay has had a written history; that with regard to discipline of other officers, the Chief stated no other officers have the discipline history such as Ramsays; with regard to the level of discipline the Chief does take into consideration the previous history, as well as the attitude and type of charges pending; regarding if the Chief liked Ramsay, he stated he does not know Ramsay that it is not his demeanor nor stance to "get to know" the officers; regarding if Chief disliked Ramsay; he again stated he does not know Ramsay however he does dislike his behavior, the Chief has tried talking with him, his attorney, his friends, he's brokered deals and overlooked embarrassing situations regarding a cartoon drawing and that he did not charge Ramsay with; the Chief has taken every step to attempt to resolve these issues. The Chief stated that this is an officer (Ramsay) who has been trained and can do the job; Ramsay's received commendations. However, he has problems with communications and cooperation with anyone in authority. Ramsay has been best friends with officers who once become supervisors he then has a problem with. The Chief feels he has exhausted all means available to him and wishes he could have done a better job resolving this.

Donnellan cross-examined the Chief at 10:40 p.m. Donnellan asked the Chief how long discipline letters are considered? The Chief stated that under the new contract, which he negotiated, a letter of reprimand can be removed, and thus is not considered, if no other letter of reprimand is issued for one year; under the Old Contract, there was no language so the previous discipline was considered; when asked if he considered a letter of reprimand from 1997, the Chief stated not that he recalled; regarding a previous reprimand, the Chief stated that he did take that into consideration; the Chief added further that Ramsay had a previous discipline under the former Chief (Rider); and that Rider had even received a letter of apology regarding his conduct; that Ramsay has a history of missing court appearances; regarding progressive discipline, the Chief stated that this was only a small part of his prior discipline; regarding the Chief using anything in Ramsay's file, the Chief stated he cannot; regarding a past Agreement; the Chief stated he cannot testify regarding this agreement; regarding any other officer missing traffic appeals, the Chief stated it does not matter to him whether it is traffic or criminal cases -- all cases are important to him; regarding any other officer being disciplined, the Chief confirmed that others had been; regarding how many, the Chief would not identify them due to the public forum; regarding what type of discipline, they received letters of

counsel for one violation; regarding Ramsay being issued a letter of counsel, the Chief could not recall that he had received any; regarding Page 2 of Exhibit 1 where the Chief wrote "prior to my becoming chief, you missed several court appearances and were informed numerous times that you are required to appear in court" if that was considered in the Chief's recommendation for dismissal, the Chief stated that this was difficult to answer -- was it a primary factor for his recommendation for dismissal no; was it considered in totality - yes. When asked if the Chief remembered how far notifications of missed court dates back to, he stated 1999; regarding how many missed court dates - two to three; regarding a policy regarding missed court dates at that time (during Rider's tenure), the Chief could not say but added further that prior to his becoming Chief, the officers were not always required to go to court and Chief Mulhern changed that.

Regarding the Chief being concerned that Ramsay was observed on Route 40 on the motorcycle, the Chief answered he had a letter from the Sergeant who then had a conversation with Ramsay subsequent to observing him going at a high rate of speed; regarding why Ramsay was not further asked, the Chief replied Donnellan could read the letter if he'd like; the Chief confirmed that Route 40 is a road that many people use on a daily basis; both motorcycles and cars; the Chief then read the memo from Sergeant Cullen dated July 8, 2003; and confirmed that Ramsay does drive that route and does own a motorcycle, a black Harley Davidson; and that Officer Cullen confirmed that it was Ramsay's motorcycle; confirmed the operator was Ramsay, not his brother; that Ramsay told another person he could always say that "it was his brother;" regarding Ramsay not saying he was on his bike on the day in question, the Chief replied he did not know how to respond but that "this officer has not been cooperative in any form of this investigation."

At this time, Mr. Hartnett requested clarification. Mr. Hartnett commented that he did not understand why Officer Ramsay did not just answer Question 7 on the Interrogatories, Exhibit 5, that he was "not on his motorcycle," rather than "I have no idea why someone was observing me."

When Donnellan asked of the Chief, why the recommendation of termination now? The Chief replied, "I don't have any other choice." Regarding provisions for dealing with sick leave abuse, the Chief stated based on the union contract, he could send the officer to a doctor; regarding his not sending Ramsay to the doctor, he stated he did not have the information as to why Ramsay was out and a week later it was too late; the Chief confirmed that he now knows Ramsay stated sunburn; regarding whether or not the Chief had any reason to doubt sunburn, the Chief stated at that time no; regarding whether or not the Chief believes sunburn can render one incapable on duty, the Chief stated yes. Regarding why the Chief did not investigate Ramsay's claim further requiring more documentation, the Chief stated Ramsay's answers to the interrogatories speak to Ramsay's resistance of any assistance. "Ramsay is not cooperative." Regarding Ramsay's sunburn, the Chief stated Ramsay had an opportunity to explain and chose not to; regarding the weight of the officer's duty belt, the Chief was not sure of the exact weight as he does not wear a duty belt; however 24 lbs. sounded correct; that Ramsay is required to wear a duty belt and might have been incapacitated due to sunburn. In reference to the investigation of missed court date (Freitas), the Chief stated that he had never seen such disrespect in 20 years of law enforcement -- the allegation that my second in command (Lieutenant Rooney) planted evidence. The Chief confirmed that he was not present during this investigative meeting; that Sergeant Glejzer was; she put it in writing; she said it in a tone that she was upset and disturbed by this allegation; the Chief confirmed there was no personal animosity between Ramsay and Glejzer. Regarding the mention of a derogatory picture of an obese man with a star; the Chief is the only one in GPD with a gold star; the Chief was professionally offended -- that an Officer, a subordinate, would have the lack of respect to put something like that up; that it was a personal attack and an attack on the office of the Chief of Police and the Chief considers himself representative of this office. Based on the totality of all of the documentation with so many disciplines that came before this Board, he had no choice but to recommend termination.

At 11:45 p.m. Mr. Cunningham moved to continue the hearing to Monday, August 11th, at 5:00 P.M. Seconded by Mr. Dillon. Roll call vote: Dillon - yes; Hartnett - yes; Cunningham - yes; Wood - yes.

Approved: _____
Thomas D. Hartnett, Chair

Respectfully submitted,
Maria Casey
Administrative Secretary

Date Approved: August 25, 2003

Attachments - Exhibits 1, 2, 3, 4, 5, 6, 7, 8 as marked