

# Greenland Incident Review



2012

## ***FOREWORD***

**The authors of this review were asked by the Attorney General to explore the facts and circumstances which led to a search warrant execution at 517 Post Road, Greenland, N.H. on the 12 of April, 2012.**

**Accordingly, the review committee proceeded with their task and in doing so developed professional opinions on the various aspects of the investigation. Those opinions along with the recommendations associated with same are documented in the foregoing chapters. However, we the Greenland Incident Review Commission would like to state to the DTF officers who were wounded that day along with slain Police Chief Michael Maloney , that your actions immediately following the call of “shots fired” was nothing less than heroic.**

**Your immediate response to one another could only be described as both brave and courageous. Those efforts to render first aid, find cover positions and to summon help were remarkable when considering the hostile environment all of you found yourselves in. We have no doubt that each of your actions during these tragic moments saved lives.**

**It is our intent that the observations and recommendations of the Commission will help reinforce the excellent work being done by our law enforcement professionals. We hope that this report will provide specific guidelines going forward to help mitigate the multitude of risks and hazards police officers face every day.**

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1. Mission Statement

**At the request of Attorney General Michael Delaney, the Greenland Incident Review Committee was tasked to address the following:**

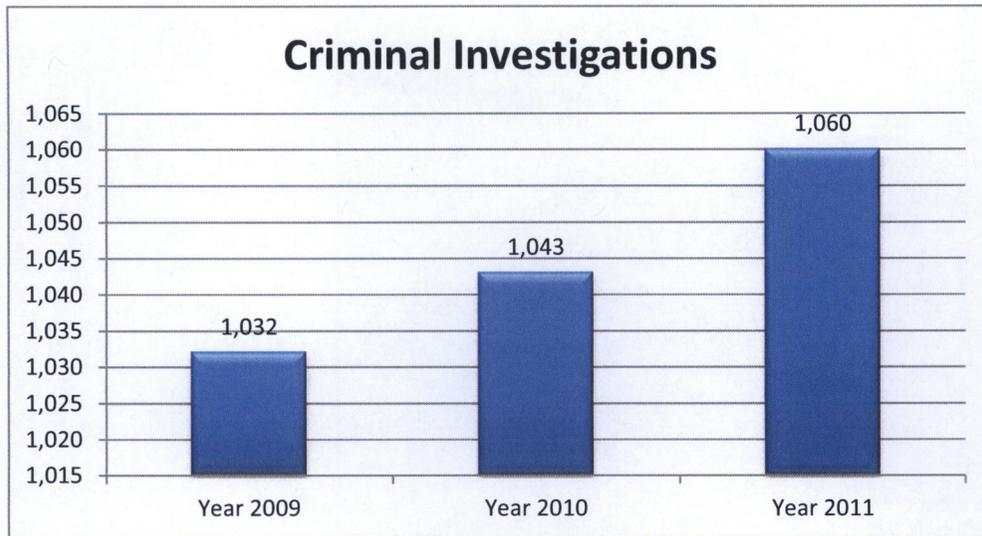
- 1. Review the circumstances leading to the decision to execute the search warrant for 517 Post Road in Greenland, and the arrest warrant for Brittany Tibbetts on April 12, 2012, and the manner in which they were executed;**
- 2. Identify the applicable Drug Task Force policies and procedures and any tactical considerations at play;**
- 3. Evaluate the level of compliance with applicable policies and procedures; and how the tactical considerations were addressed in the planning of the operation and the execution of the plan; and**
- 4. Report the committee's finding in a written document, which should include:**
  - A factual recitation of events;**
  - Identification of the applicable policies and procedures**
  - An assessment of the tactical operation; and**
  - Recommendations as appropriate.**

**2. NH Drug Task Force  
Defined**

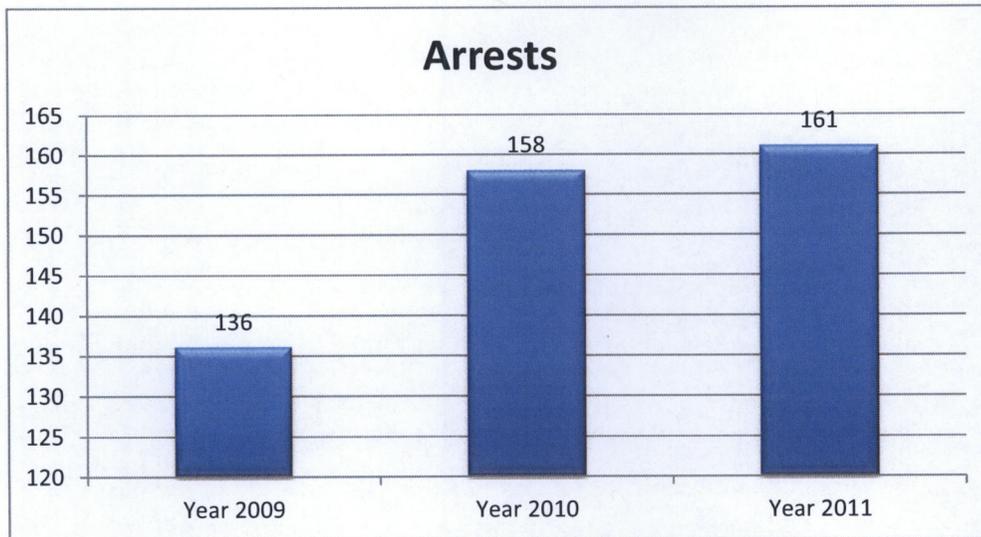
## **The Drug Task Force**

The New Hampshire Attorney General's Drug Task Force (DTF) enforces the state's laws by conducting undercover drug investigations throughout the state. The DTF includes two supervisory investigators from the Attorney General's Office who work in conjunction with officers who are seconded to the task force from state, county, and local police agencies. In addition to conducting undercover drug investigations, the DTF also provides support to local, county, state, and federal law enforcement agencies in their efforts to combat drug trafficking in New Hampshire. A long-standing mission of the DTF is to provide the officers assigned to the DTF with the skills necessary to conduct drug investigations, such as cultivating confidential informants, preparing search warrants, writing comprehensive police reports, and testifying in court. After their tenure with the DTF, the officers return to their respective departments and use their honed skills to improve their agencies' investigations. The DTF maintains regional offices, which serve the seacoast, central, western, and northern regions of New Hampshire.

	Year 2009	Year 2010	Year 2011
Criminal Investigations	1,032	1,043	1,060



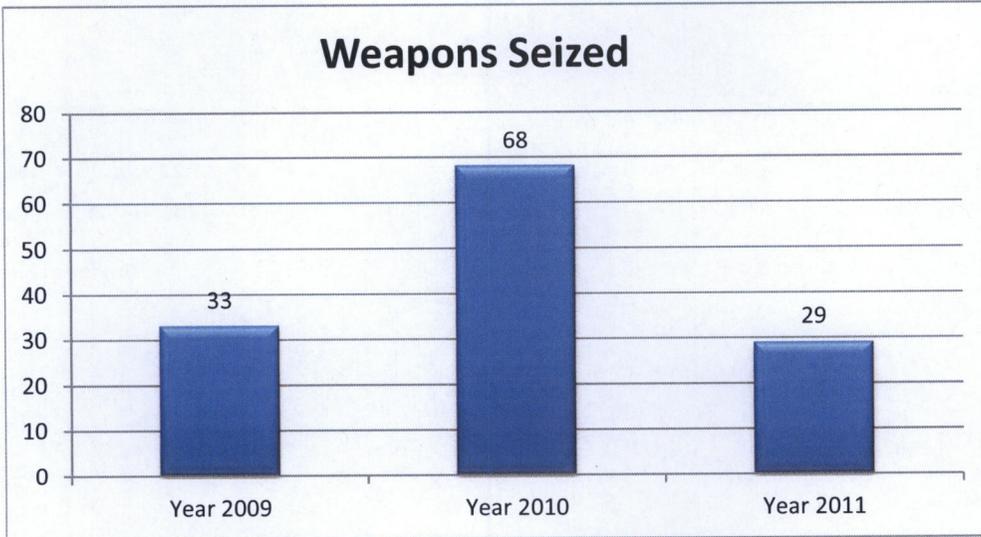
	Year 2009	Year 2010	Year 2011
Arrests	136	158	161



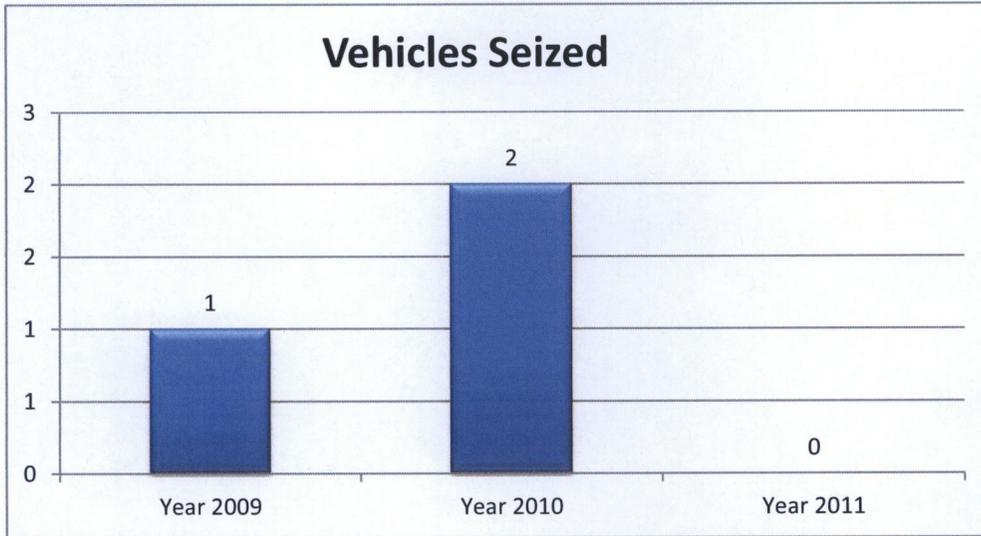
	Year 2009	Year 2010	Year 2011
Money Seized	\$79,167	\$115,683	\$133,066



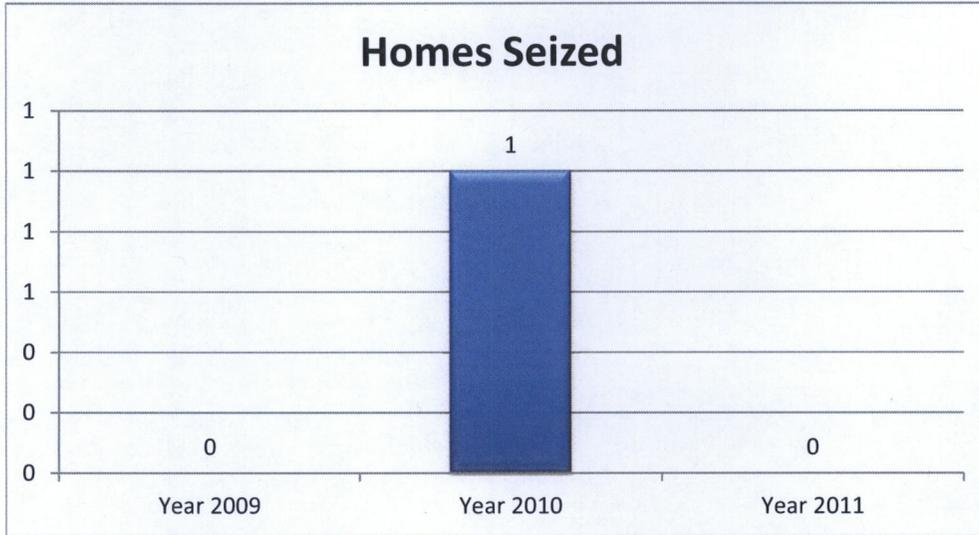
	Year 2009	Year 2010	Year 2011
Weapons Seized	33	68	29



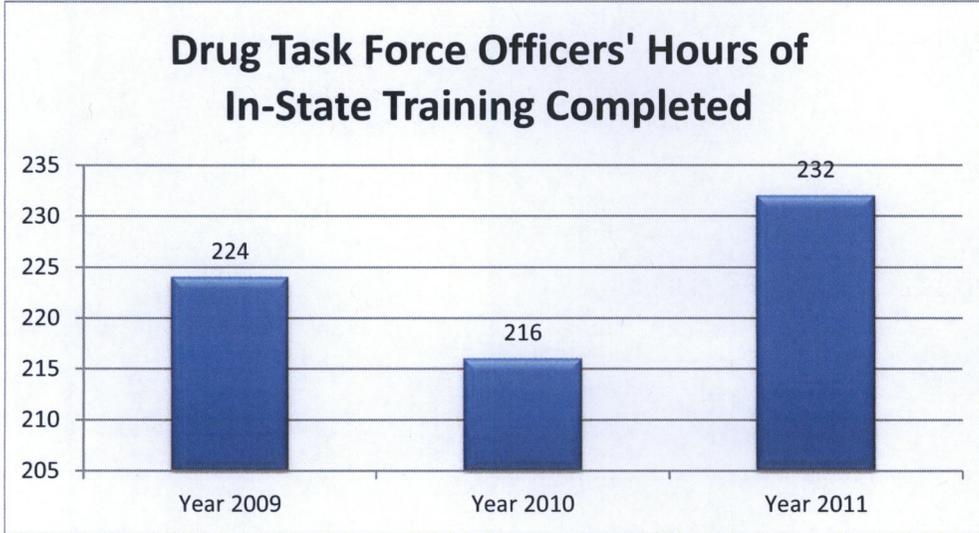
	Year 2009	Year 2010	Year 2011
Vehicles Seized	1	2	0



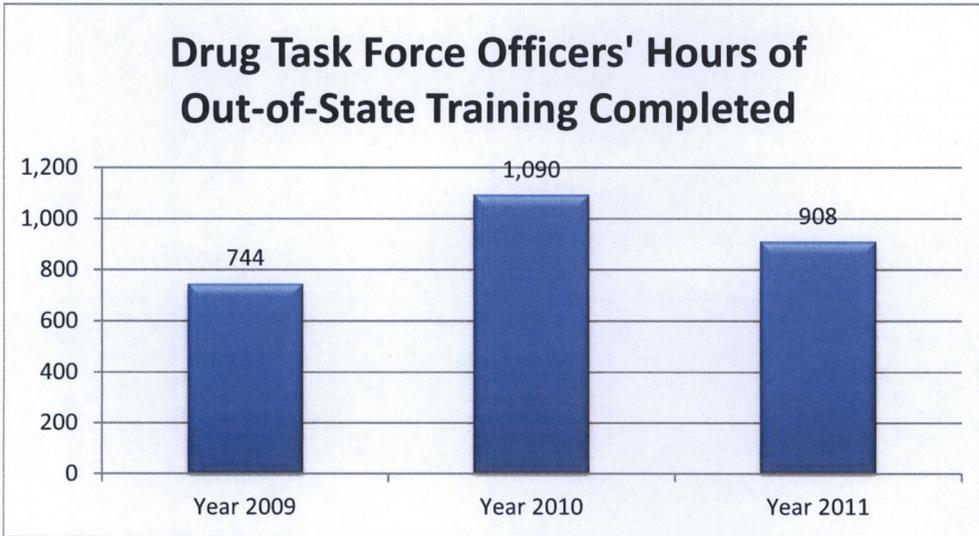
	Year 2009	Year 2010	Year 2011
Homes Seized	0	1	0



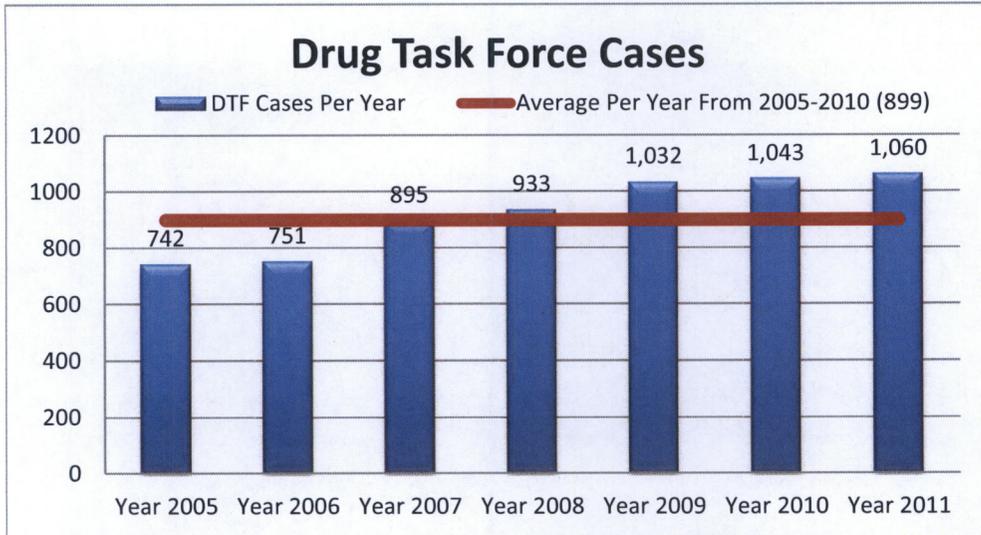
	Year 2009	Year 2010	Year 2011
Drug Task Force Officers' Hours of In-State Training	224	216	232



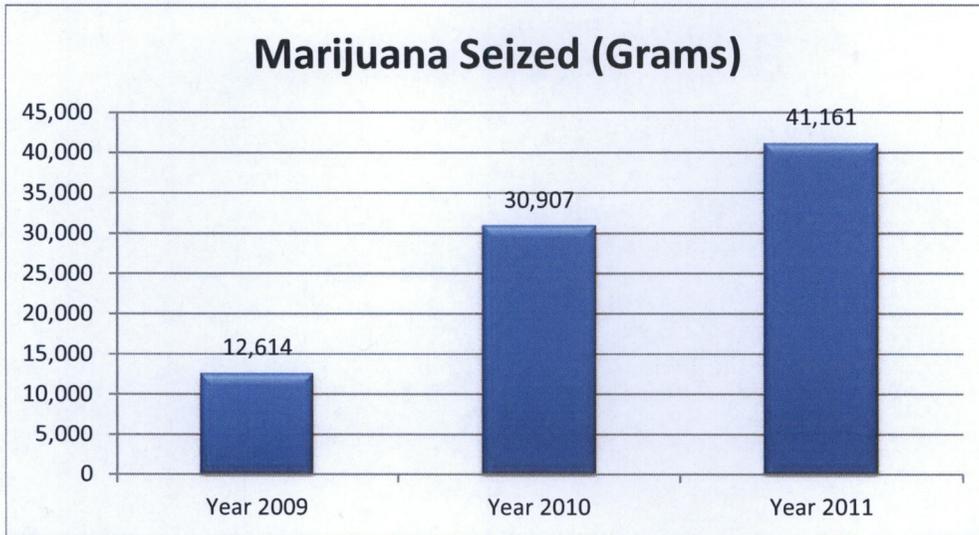
	Year 2009	Year 2010	Year 2011
Drug Task Force Officers' Hours of Out-of-State Training Completed	744	1,090	908



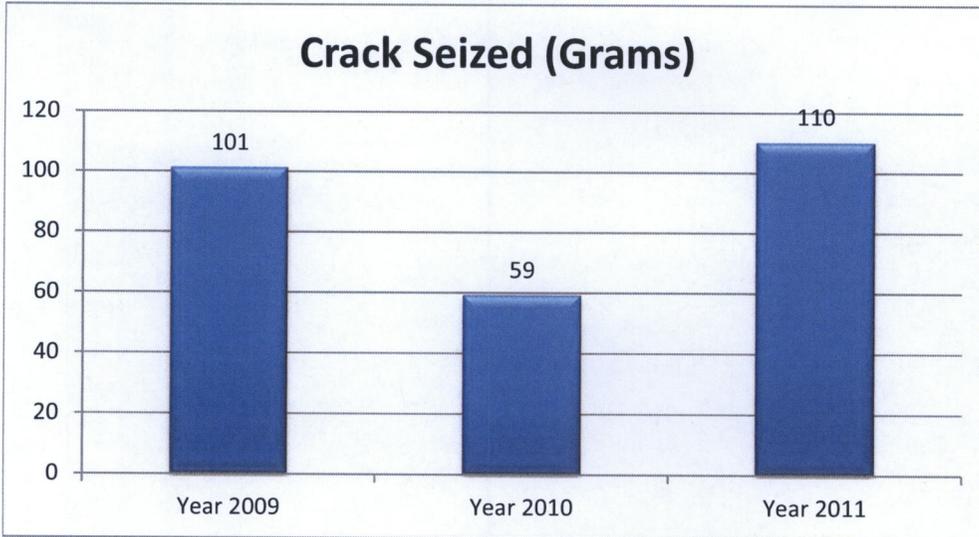
	Year 2005	Year 2006	Year 2007	Year 2008	Year 2009	Year 2010
DTF Cases Per Year	742	751	895	933	1,032	1,043
Average Per Year From 2005-2010 (899)	899	899	899	899	899	899



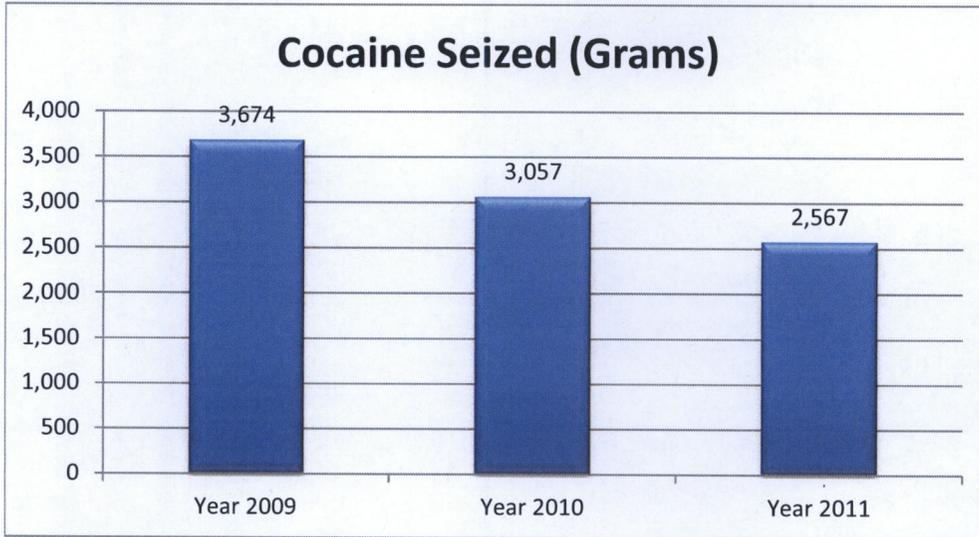
	Year 2009	Year 2010	Year 2011
Marijuana Seized (Grams)	12,614	30,907	41,161



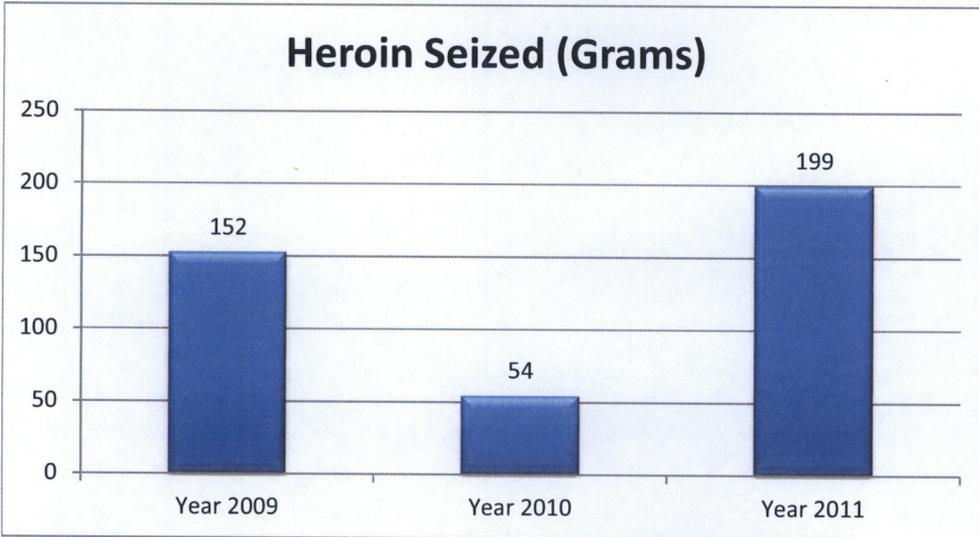
	Year 2009	Year 2010	Year 2011
Crack Seized (Grams)	101	59	110



	Year 2009	Year 2010	Year 2011
Cocaine Seized (Grams)	3,674	3,057	2,567

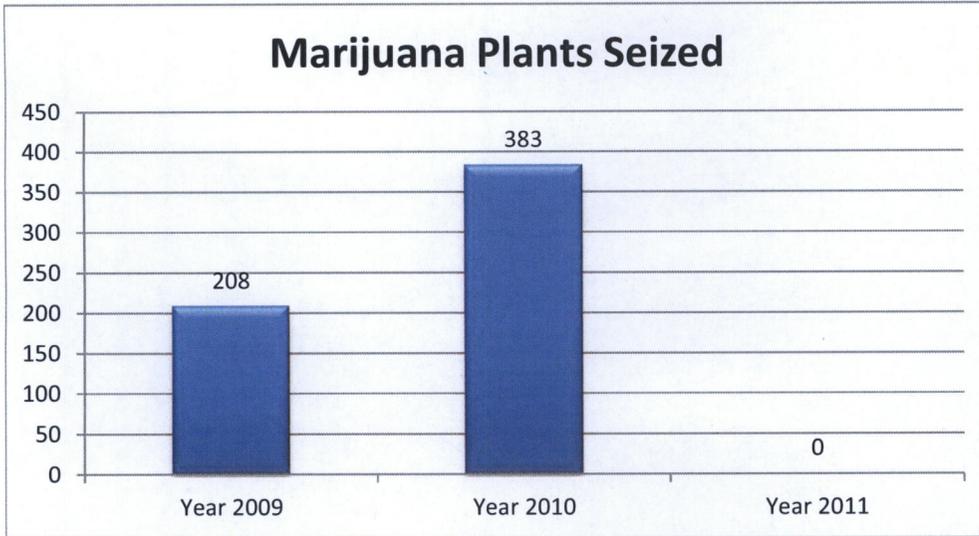


	Year 2009	Year 2010	Year 2011
Heroin Seized (Grams)	152	54	199

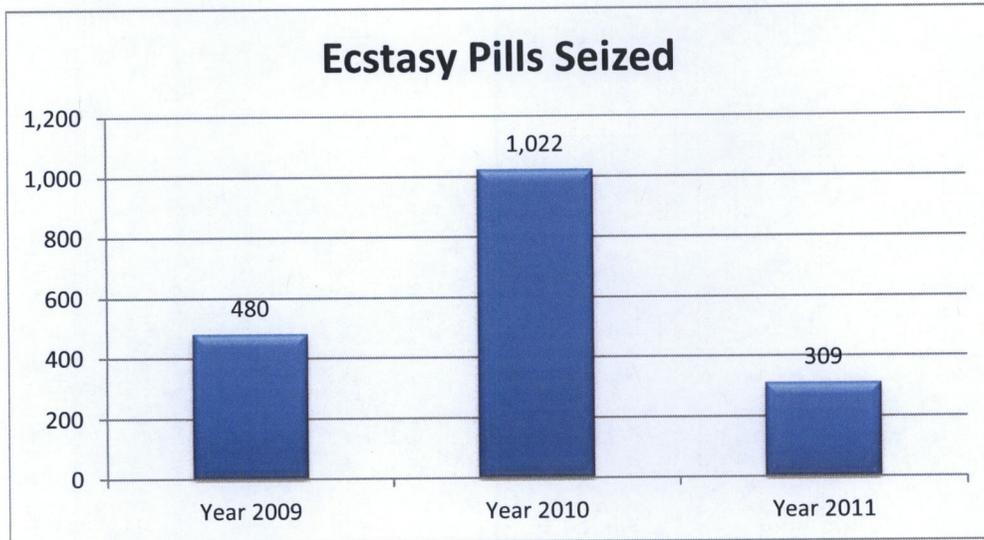


	Year 2009	Year 2010	Year 2011
Marijuana Plants Seized	208	383	NA

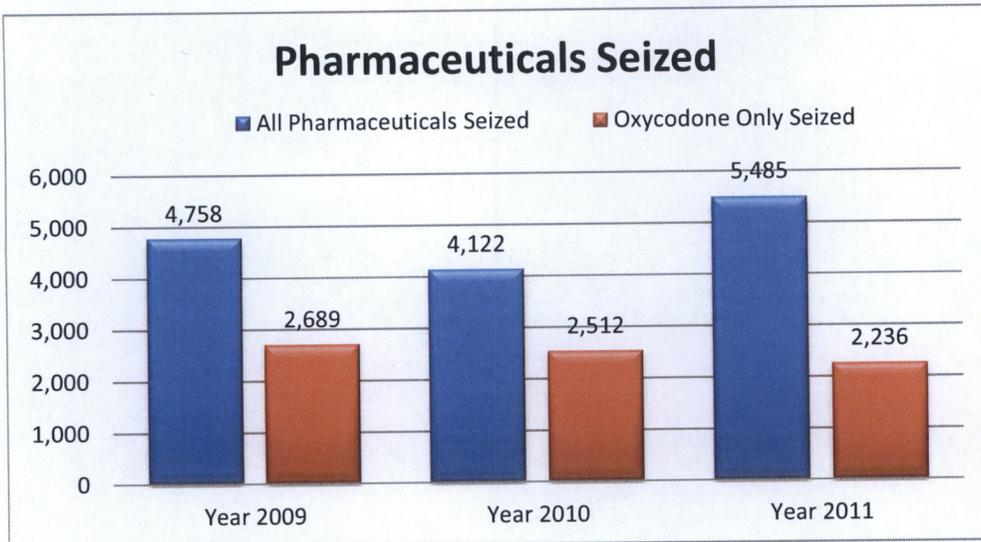
*\*NA: No data available*



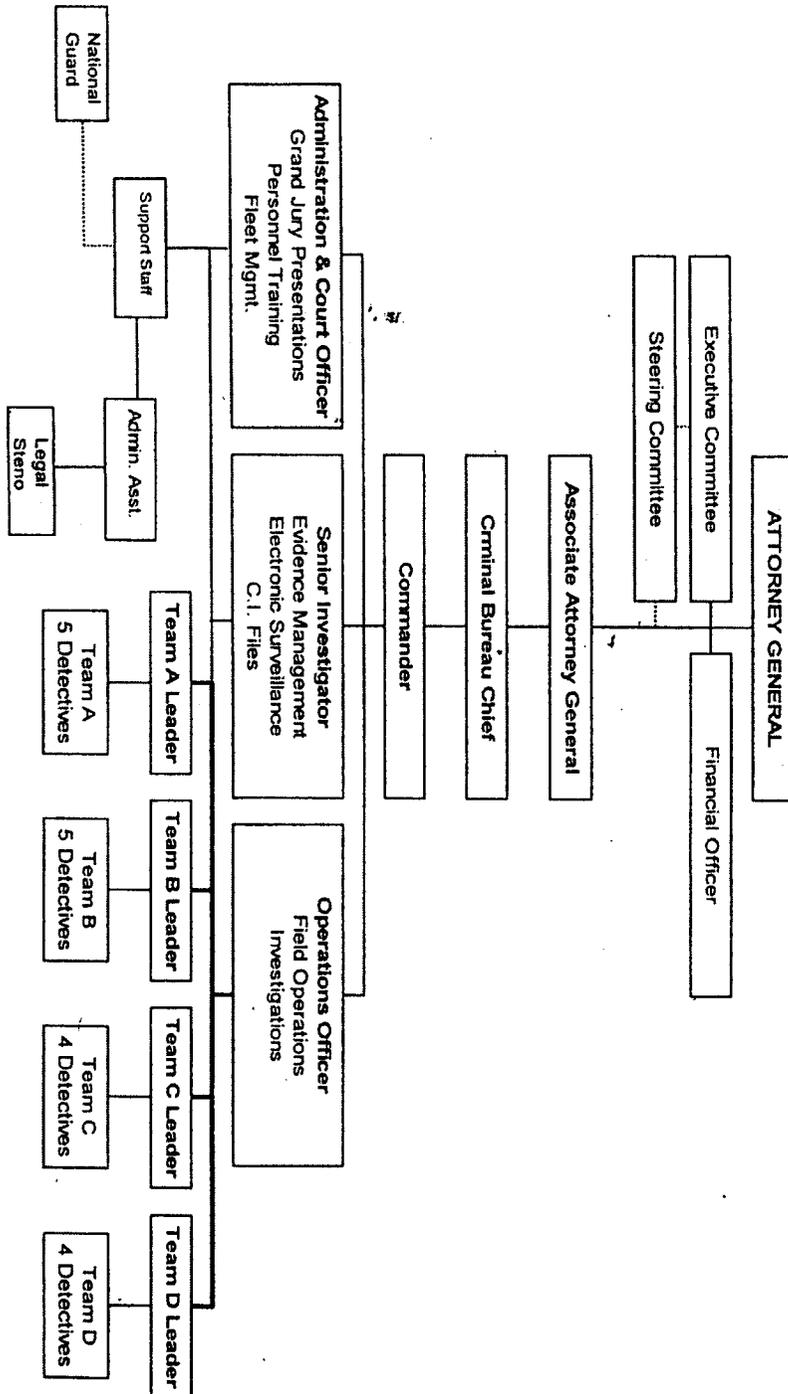
	Year 2009	Year 2010	Year 2011
Ecstasy Pills Seized	480	1,022	309



	Year 2009	Year 2010	Year 2011
All Pharmaceuticals Seized	4,758	4,122	5,485
Oxycodone Only Seized	2,689	2,512	2,236

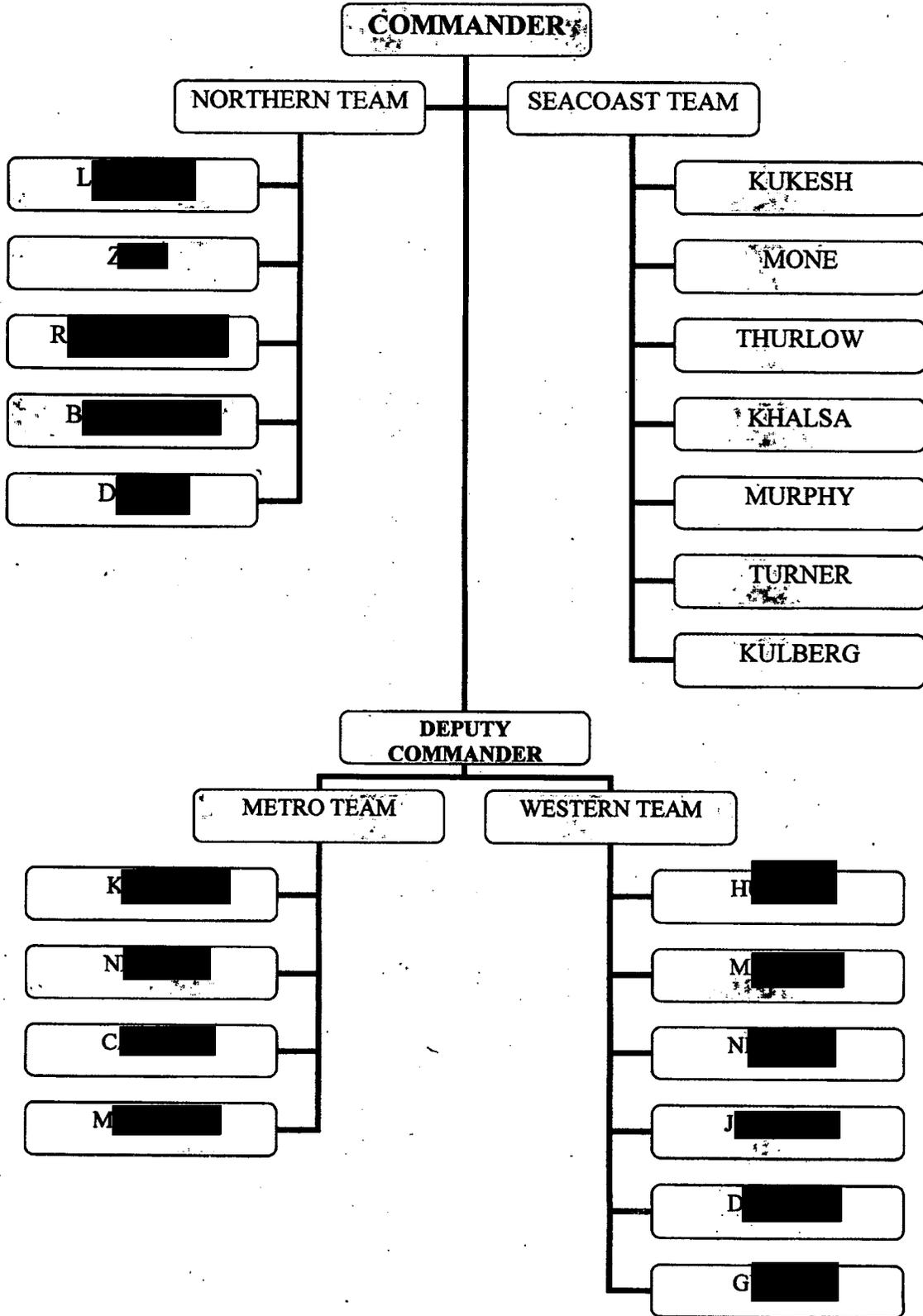


NEW HAMPSHIRE DRUG TASK FORCE  
ORGANIZATIONAL STRUCTURE



10/16/00

# NEW HAMPSHIRE DRUG TASK FORCE



3.

Executive  
Summary

## EXECUTIVE SUMMARY

### The Incident:

On Thursday, April 12, 2012 shortly after 6:00 pm, members of the New Hampshire Attorney General's Drug Task Force (DTF) Seacoast Team and the Greenland Police Department attempted to execute a search warrant at a residence located at 517 Post Road in Greenland. This occurred following several months of undercover investigation confirming that significant quantities of controlled and narcotic drugs were being sold from the home. The primary occupant of the residence, Cullen Mutrie (age 29) and Mutrie's girlfriend Brittany Tibbets (age 27) were identified through the investigation by the DTF as having been involved in the interstate distribution of illegal drugs, including Anabolic Steroids and Oxycodone. A confidential informant had made recent purchases of narcotics from Tibbets at the residence. Mutrie was well known to local police, having an arrest and criminal record which included possession of controlled/narcotic drugs, simple assault, disorderly conduct, and domestic violence-related incidents. At the time of this event, Mutrie was on a personal recognizance bail status pending trial on felony drug charges in the Rockingham Superior Court. He was also prohibited from possessing any firearms as a condition of his bail as well as a domestic violence restraining order. The DTF had obtained an arrest warrant for Tibbets charging her with selling controlled drugs and intended to arrest her as part of this operation.

DTF members and Greenland officers developed an operational plan on the afternoon of April 12, after securing a "no knock" search warrant from Justice Sawako Gardner of the Portsmouth District Court three days earlier. The plan entailed that two uniformed Greenland officers (Wayne Young and David LoConte) would approach the front door of the home and announce themselves. This was based on past contacts with Cullen Mutrie and an assessment that Greenland PD had a generally positive rapport with Mutrie during those contacts. The officers were also aware that Mutrie had video surveillance on the front porch of the home. The officers would attempt to get Mutrie out of the house and would take Tibbets into custody. DTF members would then conduct the search. The officers also discussed a plan if the occupant(s) refused to exit; the operation would then become a "surround and call-out". The officers did not know the numbers or identities of persons who were in the home, but they observed both Mutrie's and Tibbets's vehicles in the driveway. Greenland Police Chief Michael Maloney was present for these discussions and participated in the operational planning, which was a collaborative effort.

**Note:** Early in the investigation, the Team Leader discussed the possibility of utilizing the Seacoast Emergency Response Team (SERT) for the operation with the SERT Tactical Commander. This was ruled out due to the fact that Greenland was not a participating SERT member town. The Team Leader later explained that as the case moved forward, he “felt comfortable” that his team could handle the situation. The Commission determined unequivocally during its review that there was no official request made to the SERT Commander or the Control Chief, nor was a request made for another SWAT element to assist with this operation.

The DTF personnel involved with the operation were:

Detective Scott Kukesh, Newmarket PD (Team Leader)  
Detective Dev Atma Khalsa, Dover PD  
Detective Eric Kulberg, UNH PD  
Detective Jeremiah Murphy, Rochester PD  
Detective Gregory Turner, Dover PD  
Officer Christopher Thurlow, Newton PD

Shortly after 6:00 pm the team and GPD officers assembled and approached the Mutrie residence as planned.

**Note:** There were no specific reasons identified for conducting this operation on the date and time planned, except that the search warrant would expire in 4 days and the majority of the team was available. One of the members of the Seacoast Team was not working and did not participate. In addition, Team Leader Kukesh had worked since early in the day on a Vice-Presidential Security Detail. He had participated in the initial operational planning, but arrived in Greenland just prior to 6:00 p.m. Other members finalized the operations plan with GPD with his concurrence.

Chief Maloney remained nearby in his marked cruiser and did not participate in the initial approach. Officers Young and LoConte approached the front door and knocked repeatedly. The door was locked and they received no response and neither saw nor heard any activity from within. The officers were standing in full view of a security camera on the porch. After several minutes, the GPD officers were instructed by the DTF officers to move to the left and right of the residence and cover the rear and sides of the house. At that time the DTF personnel formed a tactical “stack” on both sides of the front door on the front porch, with Detective Murphy manning a battering ram. Murphy struck the door repeatedly with the ram but was unsuccessful in breaching the door. After multiple attempts, the interior door was breached and partially opened.

An adjacent window was also breached. At the same time, the officers loudly and clearly announced that they were the police and had a search warrant. The DTF officers were wearing raid jackets displaying "POLICE" and visible police badges. The undercover officers were also wearing black balaclava-style face masks. As the DTF members began their entry, they were immediately met with gunfire from Cullen Mutrie, who was standing a short distance inside and behind a large air hockey table that had been placed behind the door. Mutrie was armed with a .357 magnum revolver. Mutrie fired multiple rounds which struck Murphy, Kukesh, Kulberg, and Turner. The rounds striking Murphy and Kukesh were severe and debilitating, rendering them unable to physically respond except to attempt to retreat from the kill zone. Other DTF personnel returned fire at Mutrie. Rockingham County Dispatch was advised of shots being fired at 6:22 pm. The officers then began immediate action to remove the wounded and contain the situation while calling for additional help. In the ensuing aftermath, Chief Maloney immediately drove to the front of the residence and the officers utilized his cruiser and the other vehicles for cover as they evacuated the injured and rendered first aid. The actions of Chief Maloney and the other officers on the scene, as well as the initial responders can accurately be described as heroic. During this time, Mutrie moved to the basement of the residence, which had ground level windows facing Post Road. Within ten minutes of the initial gunfire, Mutrie fired at least two rounds from a semiautomatic pistol through a basement window towards Chief Maloney, who had taken a position of partial cover behind his cruiser. One of those rounds struck the Chief in the head, killing him instantly.

Over the next minutes and hours, multiple law enforcement agencies responded to the scene while the evacuation of all the wounded and Chief Maloney was completed. A large-scale tactical response was initiated. Telephone contact was made briefly with Mutrie and some preliminary negotiations took place, but were unsuccessful and were ended quickly by the suspect. Eventually, in the early morning hours of April 13, a State Police robot was deployed into the residence and located Mutrie and Tibbetts in the basement. Both were deceased and a subsequent autopsy determined that Mutrie had shot Tibbetts and then committed suicide. Mutrie had not been struck by any of the return gunfire, except for a minor graze wound to one arm.

#### The Review Commission:

On May 1, 2012 NH Attorney General Michael Delaney announced the formation of an independent review team (the Commission) tasked with conducting a critical examination and comprehensive review of the facts and circumstances of this incident. The Commission was directed to examine any and all relevant factors contributing to

these events, along with making any recommendations going forward. The following individuals were appointed to the Commission by the Attorney General:

**Chief (retired) Donald Conley** was appointed to chair the Commission. Chief Conley retired in 2012 after 32 years of law enforcement service with the Nashua, NH Police Department. His many assignments include having served as an undercover narcotics officer and supervisor. He is a graduate of the FBI National Academy. Chief Conley was the commander of the special operations units for the department and the criminal bureau prior to becoming Chief. In his capacity as Police Chief, he also served as a member of the executive board of the NH Attorney General's Drug Task Force.

**Chief Robert Cormier** has over 30 years of law enforcement service in Woburn, Massachusetts, Los Angeles, California, Plymouth, NH, and currently in Tilton, where he has been Chief since 2007. He has experience as an undercover narcotics and vice investigator with the LAPD. He is the current President of the NH Tactical Officer's Association and a Control Chief for the Central NH Special Operations Unit. He is a graduate of the FBI National Academy and is a SWAT and firearms instructor.

**Sheriff Craig Wiggin** has over 30 years of law enforcement service with the Bristol and Laconia Police Departments, including 21 years with the NH State Police, where he retired as the Major in charge of the Field Operations Bureau in 2005. Among his assignments, he was a crime scene investigator and supervisor with the Major Crime Unit for 9 years and led numerous investigations involving police-involved deadly force incidents. He has served as Belknap County Sheriff since 2007. He has a Master's Degree from Plymouth State University and is a graduate of the FBI National Academy. He is the commander of the Belknap Regional Special Operations Group and is an adjunct instructor for NH Police Standards & Training.

**Captain (retired) William Pease** served 22 years with the Hudson Police Department, retiring in 2005. Among his assignments, he was the commander of the Crisis Negotiations Unit for the Southern NH Special Operations Team. He has a Master's Degree from Fitchburg State College. He is currently the accreditation manager for the Nashua Police Department and he also serves as a national assessor for the Commission for the Accreditation of Law Enforcement Agencies (CALEA). He travels nationally conducting assessments of best practices and policies for law enforcement agencies.

**Attorney Stephen Roberts** is a practicing attorney and partner with the office of Hoefle, Phoenix, Gormley & Roberts, P.A. in Portsmouth, NH. From 1989 to 2011, he served as a Special Justice of the Somersworth and Dover District Courts. From 2003-

2011, he was also one of the two appointed representatives of the state's judiciary on the NH Police Standards and Training Council.

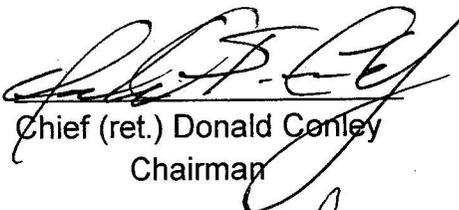
The Review:

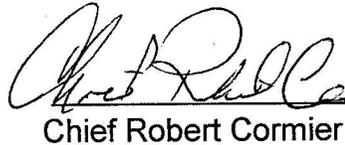
The Commission was provided with complete access to all investigative materials in this case from the Attorney General. This included transcripts of all interviews conducted, crime scene and laboratory reports, and all other relevant information developed by the investigators. In addition, Commission members were provided with a walk-through of the 517 Post Road property by the State Police Major Crime Unit's lead investigator. The walk-through also included the interior of the residence.

Over the following months, the Commission conducted an exhaustive review of all investigative documents and materials. The members met regularly and also conducted personal interviews with numerous individuals involved in the incident, as well as others who had relevant background or supporting information pertinent to the Commission's work. The Commission invited each of the officers present at the initial incident to meet with the members in person to openly discuss their thoughts, suggestions, and opinions about the event. All of the DTF members voluntarily participated; the Greenland officers declined, as did the former Commander of the NH DTF, James Norris, and Assistant Commander NH DTF, Sgt. Richard Farrell. (Note: Sgt. Farrell retired prior to April 12, 2012.) Commission members also met with other current and past DTF members, which included investigators, supervisors, and command-level personnel. The Commission was provided with all existing written policies and procedures related to DTF operations. The findings and recommendations which follow herein are based upon the information derived from all of these sources.

Having completed its mission, the Commission respectfully submits its final report to the Attorney General for whatever action(s) he deems appropriate.

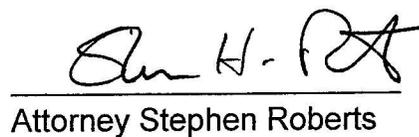
December 6, 2012

  
Chief (ret.) Donald Conley  
Chairman

  
Chief Robert Cormier

  
Sheriff Craig Wiggin

  
Captain (ret.) William Pease

  
Attorney Stephen Roberts

**4. Legal Analysis**

## LEGAL ANALYSIS

The legal framework by which the validity of the issuance of the search warrant and the execution of that warrant by the DTF is well-known, but bears repeating.

Part I, Article 19 of the State Constitution requires that search warrants be issued only upon a finding of probable cause. *State v. Ward*, 163 N.H. 156, 159, 37 A.3d 353 (2012). Probable cause exists if a person of ordinary caution would justifiably believe that what is sought will be found through the search and will aid in a particular apprehension or conviction. *Id.* “The police must demonstrate in an application for a search warrant that there is a substantial likelihood that the items sought will be found in the place to be searched.” *State v. Fish*, 142 N.H. 524, 527–28, 703 A.2d 1377 (1997). “However, they need not establish with certainty, or even beyond a reasonable doubt, that the search will lead to the desired result.” *Id.* at 528, 703 A.2d 1377 (quotation omitted).

See *State v. Ball*, \_\_\_\_ NH \_\_\_\_, 53 A.3d 603, 608 (2012)

Specifically, New Hampshire has a constitutional ban against unreasonable search and seizure that pre-dates the Federal Constitution. Part I, article 19, provides:

“Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his \*234 papers, and all his possessions. Therefore, all warrants to search suspected places ... are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation; ... and no warrant ought to be issued ... [except] with the formalities, prescribed by law.”

See *State v. Ball*, 124 NH 226, 233; 471 A.2d 347, 352 (1983).

The method of execution of the search warrant is also proscribed by New Hampshire law.

Under New Hampshire law, when executing an arrest or a search warrant, police officers, before forcibly entering a dwelling, should knock, identify themselves and their purpose, and demand admittance. See *State v. Jones*, 127 N.H. 515, 518, 503 A.2d 802 (1985); *State v. Thompson*, 132 N.H. 730, 732–33, 571 A.2d 266 (1990). This rule is based upon common law:

“In all cases when the King ... is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K[ing]'s process, if otherwise he cannot enter. But before he breaks it, he ought to signify the cause of his coming, and to make request to open doors...”

Jones, 127 N.H. at 517, 503 A.2d 802 (quoting *Semayne's Case*, 5 Coke 91, 77 Eng. Rep. 194, 195 (1604)). The knock and announce rule “protect[s] citizens' rights to privacy in their homes and prevent[s] unnecessary violence which could result from unannounced entries.” *Id.* at 518, 503 A.2d 802; *see also Hudson v. Michigan*, 547 U.S. 586, 594, 126 S.Ct. 2159, 165 L.Ed.2d 56 (2006) (policies underlying knock and announce rule include protecting life by avoiding unnecessary violence, protecting property by avoiding unnecessary breaking into private dwellings, and protecting privacy by affording occupants opportunity “to collect [themselves] before answering the door”). Our State knock and announce rule “applies only when a police officer forcibly enters a dwelling.” *State v. Coyman*, 130 N.H. 815, 821, 547 A.2d 307 (1988) (emphases omitted); *see Jones*, 127 N.H. at 520, 503 A.2d 802.

*See State v. Sconsa*, 161 NH 113, 117; 13 A.3d 164, 168 (2010).

The “knock and announce” rule adopted by the New Hampshire Supreme Court in *State v. Jones*, *supra*, is not inviolate. The New Hampshire Supreme Court has also recognized certain limited exceptions to that rule.

One exception is where the circumstances indicate that the evidence to be seized pursuant to a warrant is likely to be destroyed, hence, creating an exigency. *Ker v. California*, 374 U.S. 23, 39-40, 83 S.Ct. 1623, 1633, 10 L.Ed.2d 726 (1963), *see also State v. Jones*, *supra* at 520, 503 A.2d at 806. Another exception exists where the police are at physical risk in announcing their presence on the premises. *United States v. Kane*, 637 F.2d 974, 978 (3d Cir.1981).

*See State v. Thompson*, 132 NH 730, 733, 571 A.2d 266, 268 (1990).

Keeping the principles outlined above in mind, the search warrant issued by Judge Gardner on April 9, 2012 more than satisfies the constitutional requirements. The warrant sought the right to search Cullen Mutrie, Brittany Tibbetts, and the premises located at 517 Post Road in Greenland, New Hampshire. The search warrant was accompanied by a detailed affidavit signed by Detective Dev. Atma Khalsa. The affidavit detailed various events involving Mr. Mutrie and Ms. Tibbetts, beginning on July 24, 2010 and including information obtained on the date of issuance, April 9, 2012. In the view of the Commission, the reviewing judge correctly determined that sufficient probable cause was present to justify issuance of the search warrant for the 517 Post Road property and its two occupants.

It is noted that the warrant sought by the DTF included a request for an exception to the “knock and announce” rule. The notes of Judge Gardner that accompanied the warrant explain that the “no knock” warrant was requested due to the nature of the contraband sought to be seized, the cameras installed at the Mutrie residence, and the possible existence of weapons. Although not memorialized in her notes, Judge Gardner

also recalls that the discussion with Det. Khalsa also included the possibility of the use of a SWAT team for execution of the warrant.

The method of execution of the warrant has been addressed by the Commission in the other sections of this report. It is important to point out here, however, that despite the right to enter the residence without warning, the DTF actually complied with the “knock and announce” rule by having two uniformed officers from the Greenland Police Department openly approach the residence in an effort to obtain Mr. Mutrie’s cooperation. That effort was not successful.

In addition, the DTF did not use a special operations team to execute the warrant, as appears may have been contemplated on April 9, 2012, the date the warrant was issued. The decision made by the Task Force team to openly approach the residence, without the use of a special operations team, appeared to be based upon the situation as the team perceived it to be on April 12, 2012. It is recognized that circumstances that are encountered in the field are fluid, and require changes to originally conceived plans at a moment’s notice. The specific circumstances that were present on the early evening of April 12, 2012 were discussed at length between the team and the Greenland Police Department. Using the most recent information available, and weighing the options, the DTF, in conjunction with the Greenland Police Department, decided to proceed in the fashion detailed in this Report. The tragic outcome is well-known, but at bottom the DTF had valid legal justification for obtaining and executing the search warrant.

Supreme Court of New Hampshire.

**The STATE of New Hampshire**  
**v.**  
**Alvin THOMPSON.**

No. 89-338.  
March 8, 1990.

Defendant was convicted in Hillsborough Superior Court, Murphy, J., of narcotics-related offense, and appealed from order of Contas, J., denying motion to suppress. The Supreme Court, Batchelder, J., held that circumstances surrounding police execution of search warrant made destruction of evidence likely and justified officers' decision not to knock and announce their presence.

Affirmed.

**West Headnotes**

[1]  [KeyCite Citing References for this Headnote](#)

349 Searches and Seizures

349III Execution and Return of Warrants

349k143 Manner of Entry; Warning and Announcement

349k143.1 k. In general. Most Cited Cases  
(Formerly 349k143)

Exceptions to “knock-and-announce” rule exist where circumstances indicate that evidence to be seized pursuant to warrant is likely to be destroyed so as to create exigency and where police are at physical risk in announcing their presence on premises. Const. Pt. 1, Art. 19; U.S.C.A. Const.Amend. 4.

[2]  [KeyCite Citing References for this Headnote](#)

96H Controlled Substances

96HIV Searches and Seizures

96HIV(C) Search Under Warrant

96Hk150 Execution and Return of Warrants in General

96Hk153 k. Knock and announce requirement; forcible or emergency entrance. Most

Cited Cases

(Formerly 138k189(3) Drugs and Narcotics)

Circumstances surrounding police execution of warrant to search apartment suspected of being site of drug sales made destruction of evidence likely and justified officers' decision not to knock on door and announce their presence and instead to use ladders to climb to apartment windows and smash through those windows; earlier search made police aware that ingress was made difficult by steep, narrow stairway with out-opening door, and video cameras, lights, and buzzer system were later added to make ingress even more difficult. Const. Pt. 1, Art. 19; U.S.C.A. Const. Amend. 4.

\*\*267 \*730 John P. Arnold, Atty. Gen. (Tina L. Nadeau, Atty., on the brief and orally), for the State.

James E. Duggan, Chief Appellate Defender, Concord, by brief and orally, for defendant.

**BATCHELDER, Justice.**

This appeal centers around the application of the “knock-and-announce” rule in New Hampshire to the rather extraordinary facts of this case. The defendant, Alvin Thompson, was indicted by the Hillsborough County Grand Jury for possession \*731 of stolen property, sale of cocaine, and possession with intent to sell cocaine. After trial, he was convicted only on the third indictment, RSA 318-B:26, and was sentenced by the Trial Judge (*Murphy, J.*) to 6 1/2 to 15 years. The only issue raised on appeal is the constitutionality of the ruling of the Trial Court (*Contas, J.*) denying the defendant's motion to suppress. The defendant claims that evidence seized by the police should have been excluded at trial because the method by which the police entered his apartment violated his rights as guaranteed by part I, article 19 of the New Hampshire Constitution as well as the fourth amendment to the United States Constitution. We hold that the entry into the defendant's apartment by the police was constitutionally permissible and, accordingly, we affirm. Since the peculiar factual situation in this case necessarily leads us to the conclusion we reach, a brief recital of these facts is in order.

On June 4, 1987, agents of the Nashua Police Department executed a search warrant which had been issued by the Nashua District Court authorizing a search of the defendant's second-floor apartment at 70 Tolles Street. In addition to seizing certain contraband that prompted the defendant's arrest on related drug charges, the police also seized a loaded handgun. After being charged with the drug offenses, the defendant was released on bail. The approach used by the police to gain access during this search of the defendant's apartment was described in the testimony of Officer Conley during his direct examination at the hearing on the motion to suppress. After stating that there was one entranceway into the building from the outside, Officer Conley elaborated as follows:

“Once you're inside, you walk into a stairway. The stairway is extremely steep, and it was made for one person.

You would walk up a very steep stairway, and you would come to another door. This door opened towards you so it made it, again, uncomfortable from a police standpoint to have to get in there quickly.”

Thus, as a result of the June 4, 1987 search of the defendant's apartment, the police were placed on notice of some of the dangers they might encounter should they seek to execute additional warrants in the future.

Shortly after the defendant's release on bail, an ongoing undercover drug investigation led the police to believe that the defendant had reestablished himself in the drug business after the brief interlude resulting from his arrest on June 4. A second search \*732 warrant was issued by the Nashua District Court dated August 4, and was executed by the Nashua police between four and five o'clock in the morning of August 5. It should be noted at this point that during the period intervening between the first search and the second, the ongoing investigation revealed substantial changes in the premises affecting the accessibility to the defendant's apartment. Two video cameras had been installed over the outer doorway, and a light had also been installed to illuminate the viewing area. Officers who observed persons entering and exiting the building noticed that before the door was opened, a buzzer sounded, indicating that the door was being electronically unlocked from inside the building. This evidence leads to the logical conclusion that no one could enter the building from the outside without first being observed by the video cameras, whereupon the door was unlocked by the use of the electrical device located inside. It must be remembered that once inside, an entering person would then have to ascend the \*\*268 stairway and cope with the out-swinging door.

In executing the warrant on August 5, the police chose to avoid the customary entrance and instead made a direct entrance into the apartment from ladders placed against the north and south sides of the building. The upstairs windows on both sides of the apartment building were smashed, and the police entered through these openings and seized the cocaine which apparently played a role in the defendant's conviction.

The defendant's constitutional claim is grounded upon the fact that the police entered as they did, without first knocking and announcing their presence on the premises. The “knock-and-announce” rule had its origin in the development of English law and was described in the holding of this court in State v. Jones, 127 N.H. 515, 517-18, 503 A.2d 802, 804 (1985), as follows:

“There has long been a rule at common law that an officer seeking to gain admission to a private dwelling in order to execute a warrant must first make his presence known, give his identity and purpose and ask for admission. If denied admission, the officer may then forcibly gain entrance. The rule was stated in an English case decided in 1604:

‘In all cases when the King ... is party, the sheriff (if the doors be not open) may break the party's house, either to arrest him, or to do other execution of the K[ing]'s process, if otherwise he cannot enter. But before \*733 he breaks it, he ought to signify the cause of his coming, and to make request to open doors...’

*Semayne's Case*, 5 Coke 91, 77 Eng.Rep. 194, 195 (1604). The rule is commonly referred to as the knock and announce rule. The reasons most often cited for the common law rule are the protection of an individual's right of privacy in his house, and the prevention of violence. *Sabbath v. United States*, 391 U.S. 585, 589, 88 S.Ct. 1755, 1758, 20 L.Ed.2d 828 (1968).

The knock and announce rule has been widely adopted in the United States. The Congress of the United States codified the common law rule for federal law enforcement officials in 18 U.S.C. § 3109 (1985). Numerous States have also adopted the common law knock and announce rule either through case law, e.g., *People v. Lujan*, 174 Colo. 554, 559, 484 P.2d 1238, 1241 (1971); *State v. Johnson*, 102 R.I. 344, 351-52, 230 A.2d 831, 835 (1967); or by statute, e.g., DEERING'S CAL.PENAL CODE, § 1531 (1982); MICH.COMP.LAWS ANN. § 764.21 (1982).”

[1] [2] Common sense is enough to tell us that if the government's business can be conducted without resorting to violence, it must be so conducted. To permit otherwise is to invite confrontation, strife, and violence which in the long run will dilute the protections otherwise guaranteed in a peaceful and ordered society. In *State v. Jones supra*, this court adopted the knock-and-announce protections as a matter of State law. *Id.* 127 N.H. at 520, 503 A.2d at 805. The rule, however, is not without exceptions. One exception is where the circumstances indicate that the evidence to be seized pursuant to a warrant is likely to be destroyed, hence, creating an exigency. *Ker v. California*, 374 U.S. 23, 39-40, 83 S.Ct. 1623, 1633, 10 L.Ed.2d 726 (1963), see also *State v. Jones, supra* at 520, 503 A.2d at 806. Another exception exists where the police are at physical risk in announcing their presence on the premises. *United States v. Kane*, 637 F.2d 974, 978 (3d Cir.1981). We now focus our inquiry on the former of these two exceptions, and not on the latter.

The facts in this case strongly support the conduct resorted to by the police. Between the time of the defendant's first arrest and the execution of the second warrant, an elaborate surveillance system had been installed that enabled the occupant of the apartment to view, at any point day or night, the persons seeking entry. The likelihood of the destruction of evidence under such circumstances is compelling. While we recognize that the protections provided by part I, article 19 of the New Hampshire \*\*269 \*734 Constitution, as well as those of the fourth amendment, are never in sharper focus than when viewed in the protection of one's dwelling, the facts of the case at hand lead us to hold that the exigency exception was present and the appeal must fail.

*Affirmed.*

**All concurred.**

N.H.,1990.  
State v. Thompson  
132 N.H. 730, 571 A.2d 266

GIRC 000035



## **LEGAL RECOMMENDATIONS**

The touchstone to assure that a search warrant is valid is the need for probable cause. Law enforcement must demonstrate in the affidavit supporting the warrant that "...there is a substantial likelihood that the items sought will be found in the place to be searched." State v. Fish, 142 N.H. 524, 527 (1997). Whether the facts supplied to the reviewing judge meet that test is based upon several factors. Those factors include (among others) the degree of specificity, the source of information, the reliability of the sources, and the temporal quality of the information. Vague and general allegations of the presence of illicit drugs, for instance, provided to a police officer from a source not known to be reliable, and dating back several weeks from the date of the warrant request, would not satisfy the probable cause test.

The affidavit should set forth clearly and concisely the facts (not supposition) that establish probable cause. The issuing magistrate takes into consideration the source of those facts, as well as whether the conduct described in the affidavit took place within a reasonable period of time prior to the date of the warrant.

A reviewing court has to assure that under the totality of the circumstances set forth in the affidavit, "...there is a fair probability that contraband or evidence of a crime will be found in a particular place." Illinois v. Gates, 462 U.S. 213, 238, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983). The circumstances presented to the issuing court must be adequate on their own terms, i.e. the judge should not have to ask questions to elicit additional information in support of probable cause. The issuing court is expected to use common-sense in its assessment of the facts, and any close calls are determined "...by the reference to be accorded to warrants." State v. Ward, 163 N.H. 156, 159 (2012).

It is the responsibility of the officers seeking the search warrant to assure that the facts presented meet constitutional muster. It is not the place of the issuing magistrate to speculate as to whether probable cause exists, or to gloss over any inadequacies in the warrant request. Search warrants are the exception to the constitutional mandate that all citizens have a right to be secure from all unreasonable searches, and no warrant should be issued without sufficient facts to establish probable cause. Judges have the right and the obligation to refuse to issue a warrant unless it meets the minimum standards set out by the United States Supreme Court and the New Hampshire Supreme Court. Law enforcement should be mindful of that obligation, and avoid seeking a warrant unless adequate probable cause is present.

**5. Management  
Supervision**

## **Review of Management and Supervision**

Based upon discussions with current and former team members, team leaders, and supervisors, as well as a thorough review of policies and procedures, it became readily apparent to the Commission that clear and unambiguous lines of authority and responsibility did not previously exist within the DTF and were not well established at the time of this incident.

The primary Assistant DTF Commander retired just prior to this incident. He had served in the position for several years. Numerous DTF members noted that he had been actively involved with day-to-day operations of the teams and had regular communications with team leaders and investigators. He was not immediately replaced and the (former) Commander then divided the responsibility for supervision of the teams between himself and the second Assistant Commander, whose operational experience with undercover investigations was limited, as verified by his own statements. On April 12, the Commander was overseeing the Seacoast Team, but he was not aware that they were conducting the search warrant operation in Greenland that evening.

It also became apparent that a disparity with respect to the influence and autonomy of the team leaders has also existed across the DTF teams. In other words, some team leaders were very "hands-on" and insisted on being very much involved in investigations and operations; some would delegate significant responsibility and influence to team members, as was the case with the Seacoast Team. With respect to the Seacoast Team, the designated team leader was a detective with limited supervisory training and experience. He was given the authority and autonomy to approve operations such as the search warrant in Greenland and was not required to seek approval from a superior on the execution of the warrant or the operational plan. These operations were very much a collaborative effort involving all members of the team. There was no written policy or procedure in place regarding a "sign off" process for operational matters, regardless of the nature or potential risk involved.

The Commission also learned that there was no written requirement or minimum standard for the assignment of team leaders. These decisions were solely within the discretion of the Commander, based upon observed skills and abilities of his personnel. While most team members and supervisors attended training programs directly related to their duties as narcotics officers, there was no definitive time table for this occurring as members transitioned in and out of the DTF or were assigned a supervisory role. It was expected that members would attend relevant training programs such as the DEA Program for drug investigators, the Reid School on Interviewing and Interrogation, and training on the use of criminal information and intelligence systems. Some, but not all supervisors attended the DEA's Narcotics Unit Supervisors School in Quantico. DTF members advised that they were generally supported with requests to attend training programs, but often had to initiate the process from the bottom up.

The policies and procedures provided to DTF members do not clearly outline a chain of command and the requisite areas of responsibility for each position within the organization. New members are "shown the ropes" by senior members and are instructed on the proper

chain of command for their respective team, which also varied depending on the team leader's instructions and preferences. The DTF should develop a consistent culture of leadership and supervision across the entire organization so that each team is structured and functions in a similar manner. It is very clear that such has not traditionally been the case. Absent are clear written policies and enforcement of those policies. As a result, team members are granted license to develop their own methods of operation which exposes the entire organization to unacceptable levels of inconsistency and therefore risk and liability.

**5A. Recommendations**

### **Management and Supervision Recommendations:**

With regard to Management and Supervision of the NHDTF, the Commission recommends the following:

1. That a clear organization chart for all DTF personnel be developed and presented to every team member.
2. That each level of the organization has a job description outlining the duties and level of authority for the position.
3. That a senior member of the Attorney General's office experienced with undercover drug operations and investigations be designated as the primary liaison and supervisor, to whom the DTF Commander reports directly.
4. That Team Leaders report directly to an Assistant Commander or in his/her absence, the Commander.
5. That team leaders shall update the Commander or his/her designee, Assistant Commander, regularly about ongoing operations, including controlled drug purchases, arrest warrants, and search warrants.
6. A Tactical Threat Matrix or assessment equivalent shall be utilized for every search warrant and arrest warrant operation. Accordingly, any search or arrest warrant operation that is identified as "high risk" by the threat matrix or assessment will require that the Assistant Commander and Commander be informed of the case details before initiating any warrant execution.
7. That all Team Leaders and Assistant Commanders attend the DEA Narcotics Supervisor Leadership Program and/or the Drug Task Force Supervisor's School or equivalent within 6 months of being designated a supervisor. Attendance at the DEA Drug Unit Commanders Academy is also encouraged for Assistant Commanders and the Commander. We strongly recommend that additional training relevant to supervisory/management practices also be attended.
8. That written protocols consistent with these guidelines be developed, discussed with, and distributed to each member by the Command Staff.

**6. Tactical  
Summary**

## **Tactical Summary**

On April 12<sup>th</sup>, 2012 Investigators from the New Hampshire Drug Task Force - Seacoast Team had a “no knock” search warrant for 517 Post Road, Greenland, NH. This address was the residence of Cullen Mutrie, who had been the subject of a year-long investigation into illegal sales of narcotics. On several occasions, undercover officers had purchased narcotics from Mutrie and his girlfriend Brittany Tibbetts.

The residence was a white two-story wood structure with an addition and a full basement. It had a small, covered wooden porch on the front of the house. The location was in a mostly residential neighborhood with single family homes. There was also a small detached garage on the property and multiple vehicles in the driveway at the time of the warrant service.

Cullen Mutrie had a significant criminal history with the Greenland Police Department. There were concerns that he may possibly resist arrest and may possibly be armed. This was documented in the affidavit for the search warrant and the reason for the “no knock” warrant. The Greenland Police Department had previously taken several weapons from Mutrie stemming from a domestic violence incident and there was an active Protective Order against Mutrie. There was also some intelligence that Mutrie may have kept a handgun under the seat of one of his vehicles on the property.

### **Briefing and Operation Plan**

The Drug Task Force (DTF) Seacoast Team conducted several months of investigation into illegal drug sales coming from 517 Post Road in Greenland and the occupants, Cullen Mutrie and Brittany Tibbetts. They eventually obtained an active Search Warrant for 517 Post Road and arrest warrant for Brittany Tibbetts for the sale of narcotics. The affiant was Detective Devatama Khalsa of the Dover Police Department who also put together the operations plan. The DTF Team jointly decided that the warrants would be served early in the evening on Thursday April 12<sup>th</sup>, 2012. Khalsa then would conduct the briefing at approximately 5:30 pm at the DTF Office in Portsmouth. The plan was to serve the warrants at 517 Post Road the same day at approximately 6:00 pm.

Present at the briefing were the following:

Greenland PD  
Chief Maloney

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Officer Young

DTF

Detective Devatama Khalsa – Dover Police Department  
Detective Jeremiah Murphy - Rochester Police  
Detective Gregory Turner - Dover Police Department  
Detective Eric Kulberg - UNH Police Department  
Detective Christopher Thurlow – Newton Police Department

Arrived late:

Detective Scott Kukesh – Team Leader was briefed by the Lead Investigator and he subsequently approved the mission. *(Detective Kukesh is a member of the Seacoast Emergency Response Team (SERT) who was involved in a Vice Presidential Protection Detail that day.)*

Not present but assisted was:

Officer LoConte – Greenland PD

The briefing included intelligence background, suspect information, exterior location maps, warrant information and contingency plans. The plan agreed by all was to have uniformed Greenland Police Officers first attempt a door knock and attempt to get the occupants to come out onto the porch. Then the DTF officers would approach, detain them and serve the search warrant. Chief Maloney was going to be in his patrol vehicle, within close proximity to the suspect's residence to assist the DTF members.

The primary entry point would be the front door. The windows were all covered, preventing both visibility and sunlight from coming in. Essentially it was dark inside the house during the daylight hours of the raid on April 12th. The weather was clear, cool, dry and seasonable.

*(Note; the temperature on April 12<sup>th</sup> was 45-48 degrees at 4pm and dipped into the 30's at night. There was no precipitation, sunrise was 6:08 am and sunset was 7:26 pm.)*

DTF Investigators involved in the raid were:

Detective Scott Kukesh - Newmarket Police Department (Team Leader)  
Detective Devatama Khalsa – Dover Police Department (Lead Investigator on this case)  
Detective Jeremiah Murphy - Rochester Police (Breacher)  
Detective Gregory Turner - Dover Police Department  
Detective Eric Kulberg - UNH Police Department

**Execution Plan**

The initial plan was to have two uniformed Greenland Officers (Officers Young and LoConte) approach the front door, downplay the situation as if there was a routine visit and draw Mutrie out of the house. Once Mutrie opened the door, DTF officers would move up onto the porch and into the house with the search warrant. It should be noted that there was a surveillance camera on the front porch which provided Mutrie with a view of the front porch/entry way. Subsequent investigation revealed the surveillance camera on the porch could be viewed by a laptop that Mutrie had in the living room.

The initial plan was that if Mutrie did not answer the door and it was confirmed he was inside and refused to come out, that it would transition to a “surround and callout” type operation for officer safety. *(Attempts to communicate with the suspect would come first before making entry.)*

As the operation began, uniformed patrol pulled into the driveway, got out and approached the front door. They knocked on the front door several times but there was no response. After several knocks on the front door by Officers Young and LoConte, DTF Team Leader Kukesh made the decision they would attempt to enter and serve the search warrant. DTF officers were standing by in a van across the street. They then drove across the street and into the driveway, exited the van and approached the front door. They then instructed Officers Young and LoConte to go to the back of the house, covering the back door and rear windows. The DTF officers then got into a stack (tactical formation) on the front porch and prepared to enter. Chief Maloney drove his cruiser to the residence, parking on the street, to the right of the DTF van.

**Entry Team Stack**

- Detective Jeremiah Murphy – (Ram)
- Detective Scott Kukesh – TL (Held screen door back)
- Detective Eric Kulberg – (Entry – handgun)
- Detective Devatama Khalsa – (Entry shotgun)
- Detective Christopher Thurlow – (Entry handgun)
- Detective Gregory Turner – (Entry handgun)

Equipment utilized by the DTF Team during the raid consisted of; concealable level II body armor, raid jackets and hoods to conceal their identity. Communications was via Nextel Phone only. The Greenland officers were equipped with portable radios.

The stack of DTF officers was on the left side of the front door on the front porch. Detective Murphy was the breacher with a ram and the Team Leader, Scott Kukesh who was 2nd in the stack, held the exterior screen door open to the left. The stack wrapped around and behind Kukesh on the left side of the porch. The breacher, Murphy then began ramming the front door, while DTF Officers waited to enter behind him.

After 3 or 4 attempts by Murphy, the front door did not open. It had sustained heavy damage but not enough to release the deadbolt lock. The steel deadbolt was engaged in the solid wood door which held it closed. The breacher then was directed to breach the window to the right of the door, which he did, in an attempt to allow officers to look into the living room. However it was too dark inside and they could not see anything. Murphy again tried to breach the front door. Finally after the 5th or 6th attempt, the front door weakened and finally opened. After a lengthy delay, the door opened, signaling the start of the entry and officers began to move into the house.

As they passed over the threshold, they moved from light to dark. As previously noted, the available sunlight was behind them and the interior of the house was dark. The daylight silhouetted the entry team as they entered the dark environment. Mutrie deliberately made the inside of the house dark by drawing down all the shades and covering all the windows to block sunlight. The entry team had no indication shots were about to be fired at them until they saw the muzzle flash of Mutrie's gun coming from the dark interior. By this time several DTF officers were struck by gunfire as they attempted to enter. It should be noted that there was a large air hockey table in the living room within a few feet of the front door. Additionally there was an island dividing the kitchen from the living room. The entry way was congested, cluttered and severely restrictive in terms of the team's mobility.

Mutrie fired point blank at the officers who were moving into the room just a few feet away. Officers were struck by bullets in the throat, chest, arms and abdomen. Some of the officers returned fire in the direction of the muzzle blast from Mutrie, while retreating back off the porch to cover.

Team members put down cover fire through the window inside the house to allow the wounded officers time to get off the porch. Tactically that was a good decision and may have saved their lives. They eventually made their way behind a DTF van parked in the driveway. Communications for help was initially via cell phones until assisting patrol units arrived with portable radios. Multiple officers were seriously wounded and needed immediate medical attention. The officers did not have appropriate medical kits to self-treat or treat each other. For a period of time they remained behind the van in the circular driveway near the street, pinned down by gunfire and concerned that moving or exposing their positions would draw further gunfire from Mutrie.

As they waited for help they administered first aid to each other and covered each other in the event Mutrie came out of the house shooting. Chief Maloney provided cover from behind his Patrol Vehicle and in addition to providing cover, he assisted in moving the injured officers out of harm's way. The police vehicles and a snowplow in front of the adjacent garage provided the only cover available.

Eventually help started to arrive and evacuation of the injured began. The arriving units from neighboring communities parked their patrol cars at the rear of the DTF van that was parked in the driveway in order to rescue the injured officers.

Meanwhile, Chief Maloney continued to provide cover from his patrol vehicle. Some of the injured officers were being evacuated when Chief Maloney was fatally shot by Mutrie. Unbeknownst to the officers at the time, Mutrie had made his way to the basement of the home after the initial round of gunfire. Subsequent investigation revealed that the fatal round exited through a basement casement window and traveled approximately 40 ft. to where it struck Chief Maloney in the head, killing him instantly.

Minutes later the Seacoast Emergency Response Team (SERT) arrived with an armored vehicle (Bearcat) and evacuated the Chief who was lying beside his car. It was initially thought that he was shot by a rifle and that the front of the house was all within range of Mutrie, who had already shot multiple officers.

Once the SERT arrived, all of the wounded were transported to the hospital and the operation transitioned into an armed and barricaded subject. Additional tactical teams were called in to assist in the operation which continued for several hours into the night. The temperatures dropped during the night which made it difficult for officers to stay out in the cold for any length of time. Additional armored vehicles were needed to contain the residence as it was unknown if Mutrie had moved outside the house during the night.

Four armored vehicles took up positions around the house. In addition, a Tactical Operation and Incident Command Center were set up at a nearby school. Many residences which were in close proximity to the Mutrie residence were evacuated. At one point, the power was shut off to the Mutrie residence to disable the camera system. During the night, State Police Bomb Squad robots were eventually sent into the residence. As one of the robots made its way down the stairs into the basement, it discovered the bodies of Cullen Mutrie and Brittany Tibbetts by the washing machine at the base of the stairs. Both were deceased from gunshot wounds.

In the wake of the tragic death of Chief Maloney and the serious injuries to several DTF officers, we were asked to review the tactical aspects of this operation and make recommendations for future operations.

### **Tactical Recommendations**

Based upon a review of all of the reports and available materials, there was no definitive determination whether or not Mutrie and Tibbetts were in the house just before the execution of the search warrant. One of the Greenland officers stated in his interview that he thought he heard some noise inside the residence when he was standing outside, just before DTF Officers attempted to enter, but this was not communicated to the others. DTF Detective Turner had left the briefing early to drive by the residence to send back updates or relevant information, but did not report back with any movement or sightings of the suspects, only that their vehicles were both still in the driveway and that no other persons or vehicles had arrived at or left the residence.

The primary entry point (the front door) posed several tactical disadvantages; it was a small wooden porch with high railings. There was only one small set of stairs leading on and off the porch and the stairs were located directly in front of the door. This resulted in the entry team being much closer than it should have been, placing team members too close to one another, as well as to adjacent walls and windows. There was also a surveillance camera on the front porch which was aimed toward the front door, allowing Mutrie to view who was at the front door from a laptop inside the house. The front door was of solid oak construction with two locks, one being a steel deadbolt. The steel deadbolt in the solid door, which was engaged, most likely was the reason it took more time to breach the door. The steel deadbolt actually had to bend to allow the door to open. The subsequent delay provided Mutrie with more than sufficient time to prepare his armed response to the entry.

#### Tactical Review Considerations:

1. **No interior layout of the home** – DTF officers reported that no interior layout was available at the briefing. Such information is needed for planning the number of officers needed to safely clear and control the residence quickly for the search. Floor plans also identify issues or hazards officers will encounter when they get inside. This information was readily available and should have been obtained as part of the operational plan.
2. **All available intelligence and background information indicated that a trained Tactical Team should have been used once the decision was made**

**to do a dynamic entry (forced entry)** – The past negative history Mutrie had with police, his extensive criminal record, his demonstrated propensity for violence, large numbers of weapons located in the house during previous contacts, intelligence that Mutrie may have a handgun and the nature of the investigation all substantiated the greater need to use a tactical team for officer safety. The application of a “threat risk assessment” would have confirmed that a tactical team was appropriate. *(A threat risk assessment is a formalized process/procedure utilized by law enforcement prior to the execution of either a search warrant or arrest warrant. It is a valuable and objective tool which ensures that specific criteria relative to safety concerns are brought to light, discussed and realized by those who will participate in a police operation.)*

3. **Lack of proper safety equipment** – Doing dynamic entries inherently presents the most danger to officers of all other means of serving warrants. With the increased risk for danger with dynamic entries, combined with the factors present in this case, a Tactical Entry Team would have been equipped with the proper tactical equipment and communications listed below:

- M-4 Carbine Rifles or similar shoulder fired weapons with light systems
- Level III external tactical body armor with throat protector, bicep protector, “POLICE” tapes front and back, and two ceramic plates
- Level III ballistic helmets, eye protection and ear protection
- Individual medical trauma kits attached to their vests
- Digital portable radios with ear microphone systems
- Kevlar gloves and Nomex fire retardant BDU Uniforms
- Level III or IV Ballistic Shields with light mounts

4. **Minimal Operations Plan and change of plans** - The operations briefing lacked sufficient detail. Additional information should have been discussed and provided to team members to include such tools as a Power Point, diagrams, photos and all other available sources.

5. **Inadequate Communications** - The DTF team did not have portable radios with them when they attempted the entry, which made it impossible to communicate with the Greenland Officers on scene or to immediately call for assistance and coordinate the response.

6. **Investigators involved in the case should not be involved in the initial entry** - Current best practices recommend not utilizing undercover investigators in the

actual dynamic entry. It is vitally important that the investigators remain objective and emotionally detached during the planning and execution of the warrant. However, specific detailed information obtained from undercover investigators is vitally important to the success of the operation.

It is a better practice to have investigators come in after the residence or location is safe and clear in the event force becomes necessary or issues arise out of the entry portion of the operation.

- 7. In this case a decision was made to do a “Dynamic Entry” without a Threat Risk Assessment and without utilizing a Tactical Team** – There was substantial information about Mutrie’s criminal history, negative encounters with police, criminal intelligence about a handgun or additional weapons, and illicit drug usage. Additionally, there were informal conversations about the need for a Tactical Team with SERT members approximately one month prior to the incident. Also, when applying for the search warrant, a discussion took place relative to the need for a Tactical Team between the affiant and the Judge who ultimately signed the warrant. This suggests that the investigators felt the warrant posed more danger or risk than a typical search warrant. However, a decision was made by the DTF Seacoast Team not to utilize a Tactical Team unless it became a surround and callout. Utilizing a Threat Risk Assessment would have clearly identified the numerous risk factors present at the time and would have mandated that this warrant be served by a trained Tactical Team.

An attempt to get Mutrie out on the porch was a viable option but when it did not work, the DTF team had planned to turn the operation into a surround and callout warrant service. At the last minute that plan changed, which we feel caused confusion and negated the initial plan. Without interior floor plans, lack of proper safety equipment and necessary number of entry personnel, this made the change in plans extremely problematic. Additionally, the video camera on the porch, solid wood door, steel dead bolt, dual locks and covered windows made this last minute change very dangerous.

- 8. Date and time for execution of the warrant** – Some members of the DTF Seacoast Team were engaged in a protection detail for Vice President Biden for most of the day. Furthermore, command staff was unavailable or out of state and minimal patrol staff was available. Some consideration should have been given to serving the warrant on another day. There was no specific information provided that would indicate that the warrant had to be served on that day and time. Furthermore, some consideration should have been given to serving the

warrant at a different time of day so as to minimize the issues of lighting and silhouetting during the entry previously discussed.

### **Tactical Summary**

Warrant service is both a necessary and important function of criminal investigations, especially narcotics cases. Discussion constantly arises on what is the best way to serve them safely. We know all search warrants and apprehensions have inherent risk. For that reason, the tactical community constantly looks at how to mitigate the risk for everyone's safety. The goal is always to perform them safely without anyone being injured. Unfortunately that task is increasingly becoming more dangerous in today's society. Suspects are using their own intelligence, technology and greater firepower against law enforcement. There have been numerous recent incidents across the U.S. in which offenders have demonstrated an ability and determination to engage in lethal confrontations with law enforcement, including incidents where a single offender engages multiple officers.

Presently we are asking officers or teams performing these types of missions to explore all options and consider the risk associated with each operation. Also we ask leaders supervising these functions to put more of an emphasis on training and equipment than before.

Having a policy which incorporates "Threat Risk Assessment" and all options being reviewed to achieve the goal should be the standard. Detailed intelligence gathering, scouting, planning and briefing are also additional ways to mitigate the risk. Regardless of the assessed risk level of the operation, DTF members should have proper training and equipment specific to the dangers associated with the missions officers are performing. In addition to search warrant executions, these missions include felony vehicle stops, fugitive apprehensions and officer / civilian rescue.

Issued equipment for these types of assignment should include the following: Issued M-4 Carbine Rifles or similar shoulder fired weapons with light systems; Level III external tactical body armor with throat protector, bicep protector, "POLICE" tapes front and back, and two ceramic plates; Level III Ballistic helmets, eye protection and ear protection; individual medical trauma kits attached to their vests; digital portable radios with ear microphone systems; Kevlar gloves and Nomex fire retardant BDU uniforms; and Level III or IV Ballistic Shields with light mounts.

This equipment should be inspected annually and it shall be mandatory for all to use it at all times when performing high risk operations.

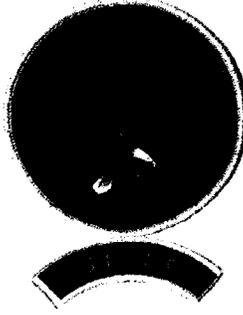
DTF Investigators should receive regular training on all issued weapons and that training should be realistic, verifiable and documented. The training should cover advanced firearms skills, shooting on the move, failure drills, low-light, rapid target identification, malfunction drills, transition drills and reloading while injured.

It should be noted the DTF Seacoast Team did take self initiation to obtain tactical training on their own. They stated that they had trained with the Seacoast Emergency Response Team and the ATF. Additionally, two members of the Seacoast DTF were members of a Regional Special Operations Team and had obtained additional tactical training in those roles.

DTF members should also receive a tactics course similar to New Hampshire Tactical Officers Association Basic Training as soon as possible. This training includes the skills and decision making needed to identify high risk operations such as dynamic entry or felony apprehensions. The training would give members the fundamental skills needed for these missions such as scouting, threat risk assessment, mission planning, entry drills, vehicle takedowns, officer rescue, breaching, rapid deployment, team movement drills and force on force training. These guidelines and training should be consistent for all the narcotic or apprehension teams across the state in order to maximize their safety.

End

6A. SERT  
Correspondence



**President**  
**Chief James Sullivan**

**Team Commander**  
**Lt. Michael Maloney**

**Greenland Incident Review Commission**  
Chief Donald Conley, Nashua P.D. (Ret.), Chair

Dear Chief Conley;

This letter is written in response to your request on behalf of the Review Commission, seeking information regarding the use of the Seacoast Emergency Response Team (SERT) prior to the warrant execution at 517 Post Road Greenland on April 12, 2012. This document may contain information that is not open to public disclosure under NH RSA 91-A; and is being shared as a Law Enforcement document with the NH Attorney General's Incident Review Commission. We would ask that its contents only be shared in compliance with the appropriate NH Laws.

As background, any request for activation for the use of SERT must follow a strict protocol outlined in our Manual of Rules and Procedures (See attached). Specifically, SERT can only be activated under the authorization of the President or in his absence the Vice President of the Board. **I will state emphatically, as the President of the Board of Directors, I never received a request for SERT activation from any source prior to the April 12, 2012 incident at 517 Post Road, Greenland, NH.**

In the aftermath of the events of that evening we began hearing a rumor that SERT had been requested and refused to execute the warrant. Based upon that rumor we began to track down its origin and sought out the basis of where this misinformation came from. Eventually, we became aware that Detective Kukesh, of Newmarket Police Department, and the DTF was the source of this information. Detective Kukesh is also a member of SERT. We learned Kukesh was referring to a conversation he had with a fellow member of SERT, Officer Tim Black. I directed Lieutenant Maloney, SERT Team Commander to follow up on this information and write a memo of the specifics of the conversation. Those memos are attached for the Commission's review.

At the monthly SERT Board of Directors in May 2012 the topic of the rumor was raised, I assured the Board I had received no request to execute the warrants in this case; but the specifics of the information and origin were not discussed. When the Lt. Maloney memo was submitted to me, I spoke to Chief Cyr, Newmarket PD and Chief Ferland, Portsmouth PD and shared the contents of the memo. At that point in time Detective Kukesh had still not been interviewed by the State Police for their investigation and it was decided that any further inquiry could hamper the ongoing investigation. Chief Cyr decided not to further pursue this matter until the investigation was complete and he had a copy of the full statement Kukesh made. It is my understanding Chief Cyr has still not received a copy of the statement; and no further action has been taken on this matter.

Please do not hesitate to contact me if I can be of further assistance, I can be reached at my Office at 603-929-1926.

Sincerely,

James B. Sullivan  
Chief of Police  
Hampton Police Department  
President, Seacoast Emergency Response Team

GIRC 000050

# ACTIVATION PROCEDURES

## POLICY:

When a critical incident occurs, it will be the responsibility of the Chief or his designee from the jurisdiction involved in the incident to request assistance from the Seacoast Emergency Response Team. Notification will be made in the following manner:

## REQUESTING AGENCY RESPONSIBILITY

The requesting agency will contact Portsmouth Communications Center. They will advise dispatch of their request to have SERT activated for an incident in their community. The requesting agency will give a brief explanation of the incident and two names with phone numbers for the people in charge of the incident.

## DISPATCHERS RESPONSIBILITY:

Dispatch, utilizing the "**SERT ACTIVATION FORM**", will document all information given by the requesting agency. This will include the nature of the incident and at least two contact persons at the incident. The dispatcher then will page the SERT president and the SERT commanding officer. The page will state "**REQUEST FOR SERT CALLOUT**". If the president or commanding officer is unavailable or does not respond within ten minutes then dispatch will page their designee. Dispatch will give the president and commanding officer all the information that was obtained from the requesting agency. The president will then contact the requesting agency and determine if SERT should be activated.

When the president or his designee authorizes the SERT activation, dispatch will notify the appropriate team members as directed by the commanding officer. This notification will be done by paging "**SERT CALLOUT**" and include the city or town where the callout is located and rally point. If time allows, a brief synopsis will be given after the code.

If the callout is cancelled, and officers have not yet arrived on scene or at the station, the code "**SERT CANCEL**" will be sent over the pagers.

The dispatcher will maintain a list of SERT personnel who have responded to the page on the SERT activation form. The dispatcher will note the time the officer called and acknowledge the page and what an approximate response time will be. The dispatcher will also notify the team members of the rally point location, as designated by the Team Commander. Within fifteen minutes of the original page the dispatcher will attempt to contact personnel who have not responded by calling their home phone numbers. The activation form will be made available to the team commander or his designee.

7. Policy Review

## **Greenland Policy Review**

The purpose of this chapter is a review of the policies and procedures currently in place for the New Hampshire Drug Task Force. The focus of the review shall be on the policies that would have been applicable to the investigation and execution of the search warrant at the Cullen Mutrie Residence on the 12<sup>th</sup> of April 2012.

The following is a list and issue date of all the policies and procedures currently in place for the New Hampshire Drug Task Force:

<u><b>Policy Title</b></u>	<u><b>Issue Date</b></u>
• <b>Intelligence Gathering and Dissemination</b>	<b>9/2004</b>
• <b>Guidelines for Use of Facilities and Remote Sites</b>	<b>4/2005</b>
• <b>Impounding and Inventory of Vehicles</b>	<b>11/1998</b>
• <b>Unusual Incidents-Investigator Security Response Procedure</b>	<b>11/1998</b>
• <b>Unusual Incidents-Receptionist Response Procedure</b>	<b>11/1998</b>
• <b>Oleoresin Capsicum Aerosol Spray</b>	<b>11/1998</b>
• <b>Use of Force</b>	<b>8/1998</b>
• <b>Crime Scene Search and Evidence Collection</b>	<b>11/1998</b>
• <b>Firearms and Ammunition</b>	<b>1/2011</b>
• <b>Confidential Funds</b>	<b>11/1998</b>
• <b>Department of Justice Information Technology Procedures</b>	<b>1/2006</b>

Upon review of all of the above policies and procedures it appears that the following policies would pertain to the Mutrie investigation:

- **Intelligence Gathering and Dissemination, dated 2004**
- **Use of Force, dated 1998**
- **Crime Scene Search and Evidence Collection, dated 1998**
- **Firearms and Ammunition, dated 2011**

### **Intelligence Gathering and Dissemination:**

The purpose of this policy is to provide guidelines for DTF personnel regarding the collection, analysis, and submission of criminal intelligence. It also provides guidelines relative to the storage and dissemination of criminal intelligence obtained from intelligence systems. The current policy limits the gathering of information to specific activity that provides a reasonable suspicion that individuals or organizations may be planning or engaging in criminal activity. It requires that any information that is gathered from authorized intelligence gathering methods shall be documented in a report.

According to the policy, the Chief Investigator, who is identified as the Drug Task Force Commander, shall review the report and enter said information into the New England State Police Information System (NESPIN).

This policy did not address guidelines for the various intelligence gathering techniques such as; surveillance, anonymous information, Confidential Informant information, controlled drug purchases and undercover police officer drug purchases.

Although the policy did address that a report shall be completed and reviewed by the Task Force Commander it did not address a due date for the mentioned report.

### **Use of Force:**

The purpose of this policy is to address guidelines for the use of force for officers assigned to the Task Force and the various levels of force to be used. The policy identifies four levels of force authorized for use: Verbal Persuasion, physical force, chemical weapons, and firearms. It is identified that the Task force officers are authorized to use the minimum level of force necessary to accomplish lawful objectives. The use of deadly force authorized by policy is taken from New Hampshire RSA 627:5, Use of Deadly Force. The law is clearly outlined in the policy.

All officers are required to submit a written Use of Force Report to the Commander after using force and said report shall be reviewed by the Commander. In cases of intentional discharging of a firearm, various immediate notifications shall be made to include the Task Force Commander and the Chief of the Criminal Justice Bureau, Department of Justice. Depending upon the circumstances involved, various investigations and reviews shall be undertaken.

### **Crime Scene Search and Evidence Collection:**

The purpose of this policy is to provide guidelines for the collection, preservation and inventorying of evidence at a crime scene. The policy describes the responsibilities assigned to the first responding officer, to the evidence collection team, and the officer in-charge of the scene. The directive provides guidelines for the protection of the scene, crime scene search, photography, and evidence collection.

Although somewhat dated (1998), the policy does provide good guidelines for processing a crime scene. It does appear that it pertains more toward first responding officers and investigators in processing various crime scenes rather than a team of drug investigators searching for narcotics, money, records and any other evidence related to

drug crimes. At a minimum, a statement that any evidence collected shall be turned in to a designated evidence room once it has been properly packaged should be clearly stated in this policy. This policy, as with all of the others, should be reviewed and updated to ensure that it is current with contemporary illicit drug scene processing.

### **Firearms and Ammunition:**

This policy clearly identifies the type of handguns and long guns that are authorized for officers assigned to the Drug Task Force. The officers are required to qualify at least once per year with their issued firearm and the firearms can be inspected upon request.

In the Greenland investigation, DTF officers were authorized to use weapons provided to them from their respective police departments. However, there is no mention of this nor do any guidelines exist regarding this practice. It is imperative that the use of any weapon and ammunition by task force members be covered by a written policy. This will ensure that proper authorization, qualification, inspection and maintenance are adhered to.

### **Conclusion:**

It is recommended that several additional policies be drafted by the New Hampshire Drug Task Force relative to their day to day enforcement operations. Further recommendations of specific policies will be outlined in a subsequent chapter in this report.

**7A. Recommendations**

## **Recommended Policies**

It is the opinion of the Review Committee, as well as of several of the New Hampshire Drug Task Force Officers interviewed, that the NH Drug Task Force is significantly lacking in proper, written policies and procedures pertaining to their day to day operations. Committee Members, along with DTF Officers also noted deficiencies in tactical training and equipment required to perform their jobs effectively and safely. Although this section will deal primarily with the topic of policy and standard operating procedure (SOP), there will also be recommendations for specific training and equipment as well.

In law enforcement, the current best practice for development of sound policy and procedure is to formulate working groups of current employees. Their role is to research and write the most up to date policy and define standard operating procedure. Due to the logistics of the DTF operations, the idea of working groups developing policy is unrealistic. However, there are resources available to the Drug Task Force Commander, such as CALEA Accredited Law Enforcement Agencies in the State, which can provide sample policies to be used as guidelines. (CALEA = Commission on Accreditation for Law Enforcement Agencies)

The following policies and procedures should be either developed or modified:

### **Search Warrant Execution Procedure:**

The Drug Task Force currently has no written directives or SOPs relative to the execution of a Search Warrant. According to our review of the current practices of the DTF, this is a function that the officers perform on a regular basis. The written directive should cover the following practices of Search Warrant execution:

- **Administrative Decision / Communication**

1. The written directive at a minimum should address a requirement that the Drug Task Force Commander is advised of the facts and circumstances of an investigation where a search warrant will be executed. A standardized "Threat Assessment" shall be completed. A documented, objective discussion involving the investigation to include the case investigator, the team leader, and the Commander regarding the best options for execution of the search warrant must occur.
2. It should be the responsibility of the Drug Task Force Commander or Assistant Commander to formally request the assistance of a trained Tactical Team (SWAT) for a pre-planned operation, if necessary. Such a request may be verbal; however, the request shall be documented in an

administrative report which shall be forwarded to the Assistant Attorney General assigned to the Task Force.

3. Any search warrant that requires a “No Knock” provision shall be brought to the attention of the Attorney General’s Legal Staff by the DTF Commander.

- **Operations Plan**

A written policy should exist that an Operations Plan be completed on all operations. The plan must be approved by the Team Leader and the Drug Task Force Commander/designee. Any deviation from the plan must be approved by the Commander unless exigent/emergency circumstances become apparent during the operation.

- The Operations Plan Policy should also be utilized for the following:
  - Arrest and Search Warrant Execution
  - Felony Level Vehicle Stop
  - Decoy Operations
  - Surround and Call-Out
  - Open Air Tactics
  - No Knock Warrant for a residence.
- The Review Committee recommends that Drug Task Force Officers no longer execute “No Knock” search and arrest warrants on residential homes or other dwellings. This is a very dangerous method of executing warrants that should be performed by a trained Tactical Team of which there are many available within the State of New Hampshire.

**Note: It is very clear that the Drug Task Force Officers lack the equipment and training to be involved in the execution of “No Knock” Warrants. Officers of the Task Force should be trained in this area so that they will be able to act in a support function during tactical operations.**

- **Evidence Collection**

An updated, written directive should outline procedures for the search and evidence collection utilized upon the execution of a Drug Search Warrant. Specific guidelines as to proper search techniques, evidence photographs, and the securing of contraband should be detailed within the written directive. It is recommended that

evidence collected should be maintained in a secure manner and logged into the Task Force Main Evidence Room no later than the next business day. Documentation relative to the collection of evidence should be submitted to the DTF Commander for his/her review in a timely manner.

### **Training:**

- **Mandatory Entry Level Training**

A training matrix should be established requiring mandatory entry level training upon assignment to the NH Drug Task Force. Consideration should be given to developing a formalized Field Training Officer Program for newly assigned officers as well as for ongoing training for existing DTF Officers.

**Note: During interviews conducted by the Committee, several of the DTF Officers interviewed indicated that they had to initiate their own Training requests. A defined, formalized DTF Training Program would ensure that all DTF members would have the opportunity to continue in the Training process as it relates to their current assignment.**

- **Quarterly Search Warrant Execution Training**

All Task Force Officers should attend quarterly training on all aspects of Search Warrant execution. It is important that all members of the DTF are updated on any changes, whether they be legal requirements, or updated tactical techniques.

### **Equipment and Inspections:**

- A written directive should be instituted to define mandatory safety equipment/tactical equipment and should also provide guidelines as to how the equipment shall be maintained. It should be the responsibility of the DTF Commander that standardized equipment, such as weapons, body armor/ballistic shields, etc., is readily available for all DTF personnel in order to perform their duties effectively and safely.

**Note: A more detailed list of recommended safety/tactical equipment is outlined in the Tactical Summary Chapter.**

- A requirement should exist that all DTF issued equipment be inspected on a monthly basis. These inspections should be recorded on a standardized inspection form and submitted to the Drug Task Force Commander for review.

### **Communications:**

- It became apparent to the Review Committee that the DTF does not have adequate communication tools. While DTF Officers can communicate with each other, they are not able to readily communicate with supporting law enforcement agencies. Officers interviewed stated that during the Greenland Search Warrant Execution they were unable to communicate with any outside police agency. They did not have portable radios which put them in a severe disadvantage. Today, many if not all, police departments in the State of New Hampshire have interoperability communications capabilities. It should be mandated that prior to initiating a DTF Operation, clear lines of electronic communication are established. This can be accomplished by having DTF Officers outfitted with proper radios or by utilizing a radio obtained from a local law enforcement agency. This is a significant safety concern for both law enforcement personnel and the community. This issue should be addressed immediately.

### **Case Investigation:**

- **Reporting requirements**

A written directive should exist which clearly outlines the procedures relative to the submission of police reports. The directive should also outline the supervisory review and process flow. Deadlines should be adhered to for the proper time of submission and approval of all reports.

8. Correspondence

## ***Greenland Incident Review Commission***

**Chief Donald Conley, Nashua P.D. (Ret.), Chair**

**Chief Robert Cormier, Tilton P.D.**

**Captain William Pease, Hudson P.D. (Ret.), CALEA Assessor**

**Hon. Stephen H. Roberts, Dover Dist. Ct. (Ret.)**

**Sheriff Craig Wiggin, Belknap County**

May 22, 2012

Col. Robert L. Quinn, Director  
New Hampshire State Police  
Department of Safety  
33 Hazen Drive  
Concord, NH 03305

Dear Colonel Quinn:

As you are aware, we have been requested by the Attorney General to conduct an independent review of the Greenland incident that occurred on April 12, 2012. To that end, the Commission is in the process of requesting information from a number of sources, including the New Hampshire State Police (the "Agency"). Please allow this to request that your organization provide a complete copy of the following documents<sup>1</sup> (as that term is defined below) for review:

- A. Any and all initial reports prepared by any Agency personnel involved in the incident, or who investigated the incident, including transcripts of all interviews taken.

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<sup>1</sup> As used in this letter, "document" or "documents" means any written, typed, printed, recorded or graphic matter, however produced or reproduced, of any type or description, regardless of origin or location, including without limitation all correspondence, records, tables, charts, analyses, graphs, schedules, reports, memoranda, notes, lists, calendar and telexes, messages (including, but not limited to reports of telephone conversations and conferences), studies, books, periodicals, magazines, booklets, circulars, bulletins, (including but not limited to inter- and intra- office communications), questionnaires, contracts, memoranda or agreements, assignments, licenses, certificates, permits, ledgers, books of account, orders, invoices, bills, statements, acknowledgments, data processing cards, computer-generated matter, photographs, photographic negatives, phonograph recordings, transcripts or logs of any such recording, all other data compilations from which information can be obtained, or translated if necessary, reports and/or summaries of investigations, expressions or statements of policy, opinions or reports of consultants, lists of persons attending meetings, drafts and revisions of drafts of any documents, invoices, receipts and original preliminary notes. If a document has been prepared in several copies, or additional copies have been made, or copies are not identical (or by reason of subsequent modification of a copy by the addition of notations or other modifications, are no longer identical) each non-identical copy is a separate document.

- B. All dispatch logs and recordings, and “call for service” records for the period 0700 12 April 2012 to 0700 13 April 2012.
- C. All photographs, videos or other visual data relating to the incident.
- D. A complete copy of the final incident report, with all attachments.
- E. Any case files for Cullen Mutrie and Brittany Tibbetts.
- F. All intelligence available to Agency concerning Cullen Mutrie, Brittany Tibbetts or the 517 Post Road, Greenland, NH location.

The requested materials should be forwarded to the Commission to my attention care of Police Standards & Training Council, 17 Institute Drive, Concord, NH 03301. If you have any questions or concerns with the foregoing, please contact me directly at 603-620-0250.

Yours truly,

Donald Conley, Chief (Ret.)

Cc: Commission Members

GIRC 000060

**Greenland Incident Review Commission**  
Chief Donald Conley, Nashua P.D. (Ret.), Chair

Chief Robert Cormier, Tilton P.D.  
Captain William Pease, Hudson P.D. (Ret.), CALEA Assessor  
Hon. Stephen H. Roberts, Dover Dist. Ct. (Ret.)  
Sheriff Craig Wiggin, Belknap County

May 14, 2012

Commander James Norris  
Attorney General's Drug Task Force  
PO Box 2404  
Concord, NH 03301

Dear Commander Norris:

As you are aware, we have been requested by the Attorney General to conduct an independent review of the Greenland incident that occurred on April 12, 2012. To that end, the Commission is in the process of requesting information from a number of sources, including the New Hampshire Attorney General's Drug Task Force (the "Agency"). Please allow this to request that your organization provide a complete copy of the following documents<sup>1</sup> (as that term is defined below) for review:

- A. All policies and procedures relating to Agency activities.
- B. All rules and regulations applicable to Agency activities.

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<sup>1</sup> As used in this letter, "document" or "documents" means any written, typed, printed, recorded or graphic matter, however produced or reproduced, of any type or description, regardless of origin or location, including without limitation all correspondence, records, tables, charts, analyses, graphs, schedules, reports, memoranda, notes, lists, calendar and telexes, messages (including, but not limited to reports of telephone conversations and conferences), studies, books, periodicals, magazines, booklets, circulars, bulletins, (including but not limited to inter- and intra- office communications), questionnaires, contracts, memoranda or agreements, assignments, licenses, certificates, permits, ledgers, books of account, orders, invoices, bills, statements, acknowledgments, data processing cards, computer-generated matter, photographs, photographic negatives, phonograph recordings, transcripts or logs of any such recording, all other data compilations from which information can be obtained, or translated if necessary, reports and/or summaries of investigations, expressions or statements of policy, opinions or reports of consultants, lists of persons attending meetings, drafts and revisions of drafts of any documents, invoices, receipts and original preliminary notes. If a document has been prepared in several copies, or additional copies have been made, or copies are not identical (or by reason of subsequent modification of a copy by the addition of notations or other modifications, are no longer identical) each non-identical copy is a separate document.

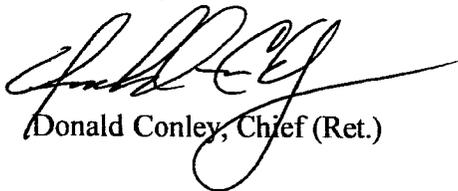
- C. All guidelines, memorandums or training materials provided to Agency personnel.
- D. The Agency Organizational Chart, along with historic staffing levels up to the date of the incident.
- E. A complete and detailed listing of all equipment available to the Agency personnel involved in the incident.
- F. The case files for Cullen Mutrie and Brittany Tibbetts.
- G. All affidavits prepared for any arrest warrants or search warrants sought by the Agency as to Cullen Mutrie, Brittany Tibbetts or 517 Post Road, Greenland, NH.
- H. All search and arrest warrants sought by the Agency as to Cullen Mutrie, Brittany Tibbetts or 517 Post Road, Greenland, NH.
- I. All intelligence available to Agency concerning Cullen Mutrie, Brittany Tibbetts or the 517 Post Road, Greenland, NH location.
- J. Training records for all Agency personnel on Team "C".
- K. Description of use by Agency personnel of any law enforcement database information, including without limitation, LINX.

The requested materials should be forwarded to:

Chief Donald Conley (Ret.)  
Police Standards & Training Council  
17 Institute Drive  
Concord, NH 03301

If you have any questions or concerns with the foregoing, please contact me directly at 603-620-0250.

Yours truly,



Donald Conley, Chief (Ret.)

Cc: Commission Members  
Jane E. Young, Esq., NHDOJ

GIRC 000062

## ***Greenland Incident Review Commission***

**Chief Donald Conley, Nashua P.D. (Ret.), Chair**

**Chief Robert Cormier, Tilton P.D.**

**Captain William Pease, Hudson P.D. (Ret.), CALEA Assessor**

**Hon. Stephen H. Roberts, Dover Dist. Ct. (Ret.)**

**Sheriff Craig Wiggin, Belknap County**

July 16, 2012

Chief Tara Laurent  
Chief of Police  
Greenland Police Dept.  
PO Box 100  
579 Portsmouth Ave.  
Greenland, NH 03840

Dear Chief Laurent:

As you are aware, we have been requested by the Attorney General to conduct an independent review of the Greenland incident that occurred on April 12, 2012. To that end, the Commission is in the process of requesting information from a number of sources, including the New Hampshire State Police (the "Agency"). Please allow this to request that your organization provide a complete copy of the following documents<sup>1</sup> (as that term is defined below) for review:

- A. Any and all initial reports prepared by any Agency personnel involved in the incident, or who investigated the incident, including transcripts of all interviews taken.

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- B. All dispatch logs and recordings, and “call for service” records for the period 0700 12 April 2012 to 0700 13 April 2012.
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- D. A complete copy of the final incident report, with all attachments.
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- F. All intelligence available to Agency concerning Cullen Mutrie, Brittany Tibbetts or the 517 Post Road, Greenland, NH location.

The requested materials should be forwarded to the Commission to my attention care of Police Standards & Training Council, 17 Institute Drive, Concord, NH 03301. If you have any questions or concerns with the foregoing, please contact me directly at 603-620-0250.

Yours truly,

Donald Conley, Chief (Ret.)

Cc: Commission Members

## ***Greenland Incident Review Commission***

**Chief Donald Conley, Nashua P.D. (Ret.), Chair**

**Chief Robert Cormier, Tilton P.D.**

**Captain William Pease, Hudson P.D. (Ret.), CALEA Assessor**

**Hon. Stephen H. Roberts, Dover Dist. Ct. (Ret.)**

**Sheriff Craig Wiggin, Belknap County**

July 16, 2012

Chief David Ferland  
Chief of Police  
Portsmouth Police Dept.  
3 Jenkins Ave.  
Portsmouth, NH 03801

Dear Chief Ferland:

As you are aware, we have been requested by the Attorney General to conduct an independent review of the Greenland incident that occurred on April 12, 2012. To that end, the Commission is in the process of requesting information from a number of sources, including the New Hampshire State Police (the "Agency"). Please allow this to request that your organization provide a complete copy of the following documents<sup>1</sup> (as that term is defined below) for review:

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Yours truly,

Donald Conley, Chief (Ret.)

Cc: Commission Members

GIRC 000066