



James R. Brace
Chief

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To: New Boston Board of Selectmen
From: Chief James Brace
Date: January 30, 2013
Subject: Prosecutor MOU

Attached to the memo is a proposed "Memorandum of Understanding" drafted by Attorney Todd Prevett and I. The "MOU" serves to specifically outline the expectations and related costs/fees for the upcoming Fiscal Year (2013).

As stated in the "MOU", we will be "billed" on a case referral basis with an additional \$400 dollars in consultation fees. Case referrals will only occur if the defendant pleads not guilty at arraignment or if a unique case justifies a referral. We anticipate referring one case each week (on average). The budgeted amount in FY13, based upon fees paid to Prosecutor Bailey, was \$10400. Prosecutor Bailey was paid \$25.00 per hour, for 10 hours each week in FY12 (\$13,000 dollars). Given the cases handled in 2012, I had reduced the budget to 8 hours per week at \$25.00 per hour to arrive at the \$10,400 dollar figure. If we based the budget on custodial arrests, we made 85 in 2012 which clearly exceeds the \$10400 figure. However, not every case will reach the trial phase. I do not anticipate a budget shortage as a result of the change.

I or a member of the Department will handle the process upto arraignment. Our Officer's will prosecute the minor motor vehicle violations they previously had issued complaints for. Attorney Prevett will prosecute serious motor vehicle violations along with all Misdemeanor level offenses. Felonies are referred to the County Attorney's office.

A significant difference in the proposed "MOU" versus Prosecutor Bailey is the handling of each case. Prosecutor handled the entire process. Attorney Prevett will handle only cases referred or scheduled for trial.

A distinction could be made that we are getting less for the same price. However, this agreement addresses several issues. First, Attorney Prevett is a member of the NH Bar and has been a practicing Attorney for 13 years. Prosecutor Bailey, while highly experienced in

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Police Prosecution, was not an Attorney. Second, I have greater influence and input into the prosecutorial process. Cases will no longer be summarily dismissed or “conditionally nol-prosed” without my or the Officers input. Third, we can establish practices that are in line with the philosophy of the Department and implement them with Attorney Prevett over the next year. And finally, Attorney Prevett is excited about the position and the idea of providing guidance to our younger Officers. With the changes we have made over the last year, it appears to be a perfect fit for our agency and the Town.

Assuming this change is successful in 2013, I can envision Attorney Prevett assuming the “entire process” as previously performed by Mr. Bailey. However, those are all decisions that can be made based upon his performance and case load in the coming year.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'James R. Brace', is written over the typed name and title. The signature is stylized and cursive.

James R. Brace
Chief of Police