



Vermont Criminal Justice Council

RULES COMMITTEE: Minutes

August 5, 2021

August 5, 2021
9:00 AM
Teams Meeting

Members in Attendance:

Sheriff Mark Anderson
Cassandra Burdyslaw
Evan Meenan
Brian Searles

Members Absent:

Bill Sorrell

Other Attendees:

Heather Simons – Executive Director Vermont Police Academy
Lindsay Thivierge – Vermont Police Academy
Cindy Taylor-Patch – Vermont Police Academy
Jacob Humbert – Assistant Attorney General

Call to order:

Meenan called the meeting to order at 9:02AM

Motion to Approve the Minutes:

Searles moved to approve the minutes. Anderson seconded the motion. The motion passed unanimously.

Presentation from Humbert on the current professional regulation process, including an update on the work of the professional regulation subcommittee:

Prior to Act 56 (effective July 1, 2018), the Council's enabling legislation required the Council to adopt rules for decertifying officers who had been convicted of a felony or who failed to complete the mandatory annual in-service training. Pursuant to this requirement the Council adopted the existing Rule 19, which included three additional grounds for decertification. Prior decertification proceedings have focused on the first two grounds listed in Rule 19. When hearings occurred, evidence would be presented and the Council would issue written findings. The Council has a contract with private attorneys to represent the Council at hearings. The Attorney General's Office acts as the prosecutor.

As a result of Act 56, the prior requirement in the Council's enabling regulation was struck and replaced with 20 V.S.A. §§ 2401-2411 regarding professional regulation. These sections expand the grounds for professional regulation. These grounds are grouped into three categories: A, B, and C conduct. The local law enforcement agency must investigate alleged conduct that falls within categories A and B. The Council can't impose a sanction for category B first offenses, except for in limited enumerated



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circumstances. The Council must still follow the Administrative Procedures Act's requirements for contested cases. The Council is no longer required to adopt rules related to professional regulation, but may choose to do so. There have not been any hearings since Act 56 became effective. The Council in consultation with the Attorney General's Office needs to determine how legal services will be provided in professional regulation proceedings.

The Council's Professional Regulation Committee meets weekly to review professional regulation complaints. It has been working on procedures to govern professional regulation proceedings. Those procedures don't go past the point of when a notice of hearing before the full Council is issued and the Committee does not anticipate addressing that issue because of a perceived need to separate the Committee's work and the Council's work in professional regulation proceedings. Any additional rules or procedures, which would be permissible in lieu of rules, would have to pick up at that point. Humbert outlined the pros and cons of adopting rules versus procedures. The Council could choose to look to other entities that hold similar hearings such as the Board of Medical Malpractice and the Office of Professional Regulation. In the event Humbert continues to serve as prosecutor, it may be best for him to not participate in the development of any additional rules or procedures relating to professional responsibility proceedings before the Commission. Meenan will pull the rules/procedures of the Board of Medical Malpractice and Office of Professional Regulation and circulate to the group for discussion at the next meeting.

Rules 3 and 19 need to be revisited in light of Act 56.

Further discussion of potential chapters to reorganize the rules under:

Committee members discussed Anderson's proposed reorganization. Meenan, Searles, and Burdyslaw all agreed that the proposal was a good starting point, and it should be kept in mind as we redraft future rules. Some specific comments to consider were to split the redraft of Rule 18 into two sections and to only have one chapter for training.

Agenda for August 12 Meeting:

Discussion of the pertinent portions of the procedures from the Board of Medical Malpractice and Office of Professional Regulation.

Taylor-Patch to give an overview of the Academy curriculum.

Potential Future Agenda Items:

Continuation of Academy curriculum overview.

Motion to Adjourn:

Burdyslaw moved to adjourn the meeting. Searles seconded the motion. The motion passed unanimously.

The meeting adjourned at 9:59 a.m.