**Vermont Criminal Justice Council**

**Working Group for Act 56 review (per H.476)   
Location: via Microsoft Teams**

**August 23, 2023**

**Members:**

1. Christopher Louras, Chair
2. Sheriff Mark Anderson
3. Chris Brickell
4. Chief Jennifer Frank
5. Erin Jacobsen
6. Mike Major
7. Kim McManus
8. Mike O’Neil
9. Trevor Whipple
10. Lt. Col. James Whitcomb - Proxy for DPS Commissioner
11. Tucker Jones

**Others:**

1. Kevin Rushing, Director of OPR
2. Chief James Pontbriand, Berlin PD
3. Motion to approve 8/9/23 minutes by Anderson, seconded by Whipple. Passed unanimously. 11-0-0

Discussion regarding untruthfulness serving as a first-offense issue – McManus reported that has been a frustration of the Professional Regulation Subcommittee (PRS). Jones shared some background on the Legislative intent of this section. Jacobsen raised concern around piecemealing this section, and noted Arizona’s language:

“Engaging in any conduct or pattern of conduct that tends to disrupt, diminish, or otherwise jeopardize public trust in the law enforcement profession.”

Chief Frank suggested:

“Elements of nexus establishment:  An agency may show nexus between off-duty misconduct and the efficiency of the service by three means:  
(1) a rebuttable presumption in certain egregious circumstances;

(2) preponderant evidence that the misconduct adversely affects the appellant's or co-workers' job performance or the agency's trust and confidence in the appellant's job performance; or

(3) preponderant evidence that the misconduct interfered with or adversely affected the agency's mission

Scope:  Law enforcement officers may be disciplined for off-duty conduct if there is a nexus (connection) between the offending conduct and the officer' s job-related responsibilities.”

Brickell explained a background of how the PRS does work that the Council doesn’t tend to see.

Whitcomb raised concern that the scope of “off-duty conduct” and noted that we could talk for hours of what off-duty conduct was.

McManus asked the question if the Council should establish a code of conduct?

Louras posed the question if “off-duty conduct” should be no if a statewide code of conduct? Discussion ensued. O’Neil suggested that a properly constructed code of conduct could replace Category A & Category B misconduct to effectuate an appropriate change. O’Neil, McManus recommended to focus on offenses that rise to level of termination.

Brickell identified a delineation between the differences of code of conduct as applicable to employment and certification.

Anderson & Frank will seek out Code of Conduct samples from the Chiefs/Sheriffs Associations.

1. Motion to adjourn by Louras. Second by Jones. Passed unanimously.

Minutes record by: M. Anderson