

**VERMONT CRIMINAL JUSTICE TRAINING COUNCIL**  
**JUNE 10, 2014**  
**PITTSFORD, VERMONT**  
**9:00AM**

**Members in Attendance**

Director Glen Button, Chair, Vermont Department of Motor Vehicles.  
Major William Sheets, Vice Chair, Vermont State Police  
Executive Director Richard Gauthier, Vermont Criminal Justice Training Council  
Captain William Elovirta, Vermont Department of Motor Vehicles  
Major Dennis Reinhardt, Vermont Department of Fish & Wildlife  
Fred Satink, Proxy for Joe Damiata, Vermont League of Cities & Town  
John Treadwell, Vermont Attorney General's Office  
David Fenster, Addison County State's Attorney  
Keith Tallon, Proxy for Commission Pallito, Vermont Department of Corrections  
Sheriff Stephen Benard, Rutland County Sheriff's Department  
Commissioner Robert Ide, Vermont Department of Motor Vehicles  
Chief Stephen McQueen, Winooski Police Department

**Other Attendance**

Emily Leinoff, Vermont Police Academy  
John Gonyea, Vermont Police Academy  
Cindy Taylor-Patch, Vermont Police Academy  
Chief Christopher Brickell, Brandon Police Department  
Silas Loomis, Vermont Constable Association  
Jacob Humbert, Vermont Attorney General's Office  
Robert Simpson, Hearing Officer

**Call to order:** Meeting was called to order by Director Button at 9:07.

Director Button asked members to introduce themselves.

Director Button explained that we have an intense agenda for today, and we will need to be flexible with the schedule due to two decertification hearings scheduled for 10:00. He further explained that Mr. Ciotti withdrew his request for a hearing.

**Approval of Prior Minutes:** A motion was made by Captain Elovirta to accept the prior Council meeting minutes. A second to the motion was made by Major Reinhardt. There was no discussion, motion passed unanimously.

**Executive Director's Report:**

- **H.765 – Tiered Certification:** This was originally calling for elimination of part-time certification. We were able to get the tiers in that we were already working on. Level one is the only new level, which is referred to as the Sheriff's level and includes courtroom security, prisoner transport, etc. Level two is the current part-time certification. Prior to H.765 going into effect next July, when an officer finished the part-time certification course, the officer would have

less than 200 hours of training, but with the same authority as a full-time certified officer. There is now a cap on scope of practice. Level three certification is what the current full-time course is. There are two tasks regarding H.765 that are coming up for the Council, which are due in a report to the Legislature by January 2015. The first task is for the Council to review the scope of practice contained in H.765 and report back to the Legislature on whether it is acceptable or if it needs to be tweaked. The second task is the Council has to examine, what is being called, an alternate path to certification. To start this process, Director Gonyea spoke with the Waiver Committee and Executive Director Gauthier spoke to the Training Advisory Committee and they are both getting a fair amount of pushback from the field regarding this. The Training Advisory Committee was split in decision. They were unanimous in that if this path comes up, it should meet or exceed the current full-time training. Director Button asked if any members had specific questions? Director Button wants to know where rule making comes into play. Executive Director Gauthier explained that it would be after the Council reports back to the Legislature.

Another topic that came up around H.765 was the decertification process and that the current standards are inadequate. The Legislature would like something from the council and will then make a committee bill so it stays alive the entire session. Executive Director Gauthier recommends tasking the Rules Committee with this.

Major Sheets asked how deep the Council has to get into the alternate path for certification because that is a large project. Executive Director Gauthier explained that he would want to inform the Legislature that there is officer opposition to an alternate path and that there are a significant percentage of agency heads in the state that are opposed. If they insist moving forward, then he is not sure that they have to have a complete program in front of them. He believes that if the recommendation that the Council gets for alternate path specifies that the training has to meet or exceed the current curriculum, then that would be sufficient. Discussion ensued. Chief McQueen believes that once level two certification is defined and in progress, there will be less of a demand for an alternate path to full-time certification than what agency heads may be predicting now. Further discussion continued.

The Council needs to look at the scope of practice contained in H.765 and determine whether that is acceptable. If the Council decided that the scope of practice contained in H.765 is acceptable, then that is what we report back to the Legislature. The piece about a proposed alternate path will be more time consuming. Executive Director Gauthier believes that the Legislature is looking more for a concept than a complete program. The Council should put together a small committee to work on this.

- **H.225 – CEW Bill:** The main push back from opponents were concentrated in two areas. The first was the level of which the CEW use authorizes the level of force and the second regarded measurement calibration. Legislature took testimony and ultimately came up with the term active aggression or active resistance plus. They decided that there had to be some threat of harm attached to active resistance. The LEAB was tasked with making a recommendation on the use of body cameras, measurement calibration and reporting criteria. They were also tasked with drafting a policy that all agencies must adopt. John Treadwell is working on the draft of the

policy. The LEAB talked with an expert and the expert explained that the newer models were not exhibiting the same problems as the older models. He explained that what he was finding, most commonly, was that they were out of time, not that the voltage was too high. It would cost about \$200K to set up a lab to test CEWs. ED Gauthier had a phone conference with Rick Smith and Mr. Smith explained that they have the new model coming out that is self-calibrating, and he wanted to know if that would satisfy the measurement calibration piece. Mr. Smith also sent some info that explained that for around \$15K, someone could purchase the equipment to measure and calibrate the devices and he would provide free training.

Chief McQueen explained that the board policy has to be completed by January 1, 2015 and agencies have to adopt by January 1, 2016.

Mr. Smith provided Executive Director Gauthier with a list of agencies that are already using body cameras. He explained to the Council that the list was more extensive than he thought.

The Council needs to finish the certification training for people who are carrying CEWs. This is similar to firearms, in that there is an initial certification training and then annual recertification. Executive Director Gauthier believes there will be a recommendation by the next Council meeting. Director Button asked if the Council has a role in gathering reports of use. Executive Director Gauthier explained that we do. The Council agreed to host the reports on our website as long as agencies can provide that data in an excel format. We are not looking for specifics or names, we just would want aggregate data.

- **Fair and Impartial Policing:** The LEAB had been tasked with identifying the essential components of bias free policing policy a couple of years ago. Agencies were mandated by January 1, 2013 to have a policy that had the essential components as identified by the LEAB. Compliance was sporadic and inconsistent. He believes the primary reason for this inconsistency was because in 2003 the Chiefs Association and that Sheriffs Association had a big push that everyone have a bias free policing policy. We had about 95% compliance, so he thinks a lot of agency heads looked at this new mandate and said that they already had a policy and thought they were all set. It was found that there were many agencies that were out of compliance. They had policies, but the policies were out of compliance. The House Judiciary mandated that agencies adopt a specific policy, either the AGs policy or the VSP policy. Executive Director Gauthier was called to appear in front of Senate Judiciary and they decided that in order to ensure compliance, they were going to require agency heads to report to a single entity. They decided it would either be the Council or the Human Rights Commission. The Executive Director asked that it be the Council. The bill now states that agencies will report to the Council, initially by September 1, which policy they have adopted. Executive Director Gauthier will then report to Senate and House Judiciary by October 1 what the results are. After the initial report, annually, agencies have to affirm in essence that they have that policy. Originally, that annual timeframe would coincide with the September date. He had asked that they change that date to coincide with the annual rule 13 report, so that they can put an indication on that report. Discussion ensued.

- The Academy is in the process of looking for a replacement for a Program Services Clerk. Interviews for that position will begin tomorrow. Executive Director Gauthier has talked to the budget analyst and they are predicting a \$30K carryover. This last Basic Class' food cost was very high. We are at 25 applicants for the next Basic Class with more coming in. This class and all future classes should not exceed 38 recruits. Executive Director Gauthier explained that from a training perspective even 38 recruits in a class is too high. Given the demands put on the academy in the legislative session, will be asking the Legislature for more staff. Training Coordinator Ryan needs more staff for the canine programs and as we look at the tiered certification, we will need more staff to handle that. We will ask for two more staff and see how it is received. It was explained to the Council that due to the high number of recruits in the last Basic Class as well as lack of staff and instructors, we had difficulties completing practical exercises in the timeframe normally scheduled. Further discussion ensued. Director Button explained that he was appreciative to the staff members for their work and to the Council members for attending graduation.

### **Committee Reports:**

- **Homeland Security:** The Executive Director explained that there will be some changes in Homeland Security. Emergency Services decided that they wanted that position back in Waterbury and said that we could voluntarily transfer it, or they would stop funding it and then create a position in Waterbury. He spoke with Andrea Young and she said that from her perspective it does make sense to consolidate. He has been working with Commissioner Flynn about the logistics of moving it and is looking at a timeline of the last day in August. From a budgetary prospective this is neutral.
- **Use of force committee** – There were several recommendation put forth for the Council. The primary recommendation regards the shotgun training. The Use of Force Committee recommends that the Council mandates annual recertification for shotgun just like with handguns. There is also a rifle course that they recommend the Council adopt as well. Executive Director Gauthier explained that for shotgun there were three courses of fire recommended by the Use of Force Committee. He further explained more in detail what the courses of fire would include. The Use of Force Committee is asking for the Council to adopt these courses of fire for certification and annual recertification. They also made a recommendation about a patrol rifle certification course. During discussion it was interpreted by the Council members that the patrol rifle course would only be an initial certification. Discussion ensued.

Captain Elovirta asked for clarification. It was explained that the shotgun course would be required for annual qualification, but it was believed that the patrol rifle course would not be required annually. Executive Director Gauthier explained in detail what the courses of fire were. It was explained that this annual qualification course would be reported during Rule 13 reporting. Further discussion ensued.

Captain Elovirta made a motion to accept the shotgun recommendation qualification, and to send the patrol rifle course back to the Use of Force Committee for clarification as to the use of rifle for qualification and expectations. Sheriff Benard made a second to the motion. Discussion: Mr. Fenster inquired if the Council had a response back to the Use of Force Committee about what needs to be

done. Captain Elovirta wanted to know why the patrol rifle qualification would vary from what we are requiring for shotguns. No further discussion. Motion passed.

Executive Director spoke to Lema Carter and he was trying to make it to the Council meeting on time, but could not guarantee that he would be present. Mr. Carter says that he has the training needed but that he is having difficulty getting the records from Rutland PD. Mr. Carter would like an extension on the decertification hearing. Executive Director Gauthier also explained that Robert Emerick was in communication with Director Gonyea up until the time that we sent him the last letter and as far as we can tell, he refused to sign for that letter because we did not receive a return receipt. That letter confirmed that we would not move his hearing because he could not be here.

**Waiver committee:** Executive Director Gauthier spoke about how the process has improved and sped up for waiver requests with the new process. Director Gonyea said the only action item for the Council would be whether the Council should or should not include the requirement for use of force training in the standard prescription for waiver officers. Director Taylor-Patch explained that in the past we have not issued certification in Vermont based on out-of state training. For instance, if an officer is certified to run radar in another state, they would still need to complete the Vermont training to gain certification. Chief McQueen spoke to the point that certain courses such as radar have statutory requirements to complete Vermont training. Discussion ensued. No motion was made on this topic. Council is not prepared to move forward.

**Decertification Hearings:** Director Button explained that there are two decertification hearings scheduled for 10:00. Jacob Humbert explained that he is not aware of either law enforcement officer being available at this moment. He recommends that the Council proceed with the hearings. He will be presenting evidence to the Council that there were notices of hearing sent to both individuals and that those notices were received by those individuals, so they were aware of the hearings. He is also prepared to provide evidence to the allegations against them. The State is seeking decertification for failure to obtain the annual in-service training as required by statute and Council Rules. Both individuals were deficient in that category. Robert Simpson, the Council's hearing officer is also present.

Council broke for a recess at 10:25.

Council returned to session at 10:35.

- **Decertification hearing of Robert Emerick:** A hearing was held in the matter of decertification of Constable Robert Emerick from the Town of Tinmouth. Jacob Humbert from the Attorney General's Office was present to provide information to the Council in regards to this hearing. The basis for decertification is Title 20 section 2355(a)(12), which authorizes the Council to adopt rules related to decertification for persons that have not complied with annual in-service training requirements. Council rules 13 and 20 are also implicated in this hearing. Formal hearing documents will be presented to the Academy Staff following this hearing.

Hearing officer asked for all non-council members leave the room at 11:13.

Council was back on the record at 11:16.

Council concluded deliberation. There was a unanimous decision that Robert Emerick be decertified.

- **Decertification hearing of Lema Carter:** A hearing was held in the matter of decertification of Officer Lema Carter from the Pittsford Police Department. Jacob Humbert from the Attorney General's Office was present to provide information to the Council in regards to this hearing. The basis for decertification is Title 20 section 2355(a)(12), which authorizes the Council to adopt rules related to decertification for persons that have not complied with annual in-service training requirements. Council rules 13 and 20 are also implicated in this hearing. Formal hearing documents will be presented to the Academy Staff following this hearing.

The decertification hearing went on a brief recess while attempts to contact Chief Warfle from Pittsford Police Department were made.

Executive Director Gauthier asked to re-visit the Use of Force Committee report regarding the use of force training for waiver officers. The Council did not make a decision or motion.

**VCJTC Report:** Director Taylor-Patch issued a verbal report to the Council Members. She explained that the part-time basic training course is now two-weeks instead of one week, and she does not have any data to back up this statement yet, but they have noticed better levels of retention and less stress than when the course was one week. The Academy has continued to offer the standards trainings, in addition to other courses. They have offered fundamentals of effective leadership, pro-active criminal enforcement, John E. Reid Interview and Interrogation School. The Academy is going to be bringing back Cooper Institute Fitness Specialist Training in October with a special focus on injury prevention. Training Coordinator Couture has done some school resource officer specific training and recently finished a training working on reducing bullying in schools. Director Taylor-Patch explained that with many of the mandates that are now training requirements, we have had a significant increase in demands and no more positions at the Academy to share the work load. She has been working with staff members to prioritize projects. Some of the new mandates that affect this are: upcoming levels of certifications, CEW certification, mental health crisis response training, search and rescue, expanded part-time, fair and impartial policing, canine training, increases in use of force training, additional reporting duties, and eyewitness identification. She further explained that we do not have the youth services coordinator or the EUDL program clerk to help with this. Discussion ensued.

Mr. Humbert notified the Council that he was unable to contact Chief Warfle.

Council went into executive session at 12:06.

Council ended executive session at 12:11.

Council concluded deliberation. There was a unanimous decision that Lema Carter be decertified.

**Fee Schedule:** Executive Director Gauthier explained that they recently changed vendors for food service., Fitz Vogt did not submit a bid, so the new vendor is the Abbey Group. They agreed to keep the current kitchen staff. Based on the information provided by the Abbey Group, the cost for meals is going to need to increase. Discussion ensued. A motion was made by Sheriff Benard to accept the fee schedule as presented. A second to the motion was made by Captain Elovirta. Motion passed unanimously.

**New business:** none

**Old business:** Director Button asked about how the rule 13 reporting was going. Executive Director Gauthier explained that we received the last report yesterday.

**Executive Session:** A motion was made by Sheriff Benard to go into executive session for the purpose of personnel. A second to the motion was made by Captain Elovirta.

Council went into executive session at 12:15.

Council broke for lunch after executive session 12:22.

Council was back in session at 12:57

**Strategic Planning Session:** Separate meeting minutes were taken by Director Gonyea for the strategic planning portion of this meeting.

Next meeting is September 9<sup>th</sup> in Pittsford.

**Adjournment:** A motion to adjourn was made by Chief McQueen. A second to the motion was made by Sheriff Benard. Meeting adjourned at 2:48.